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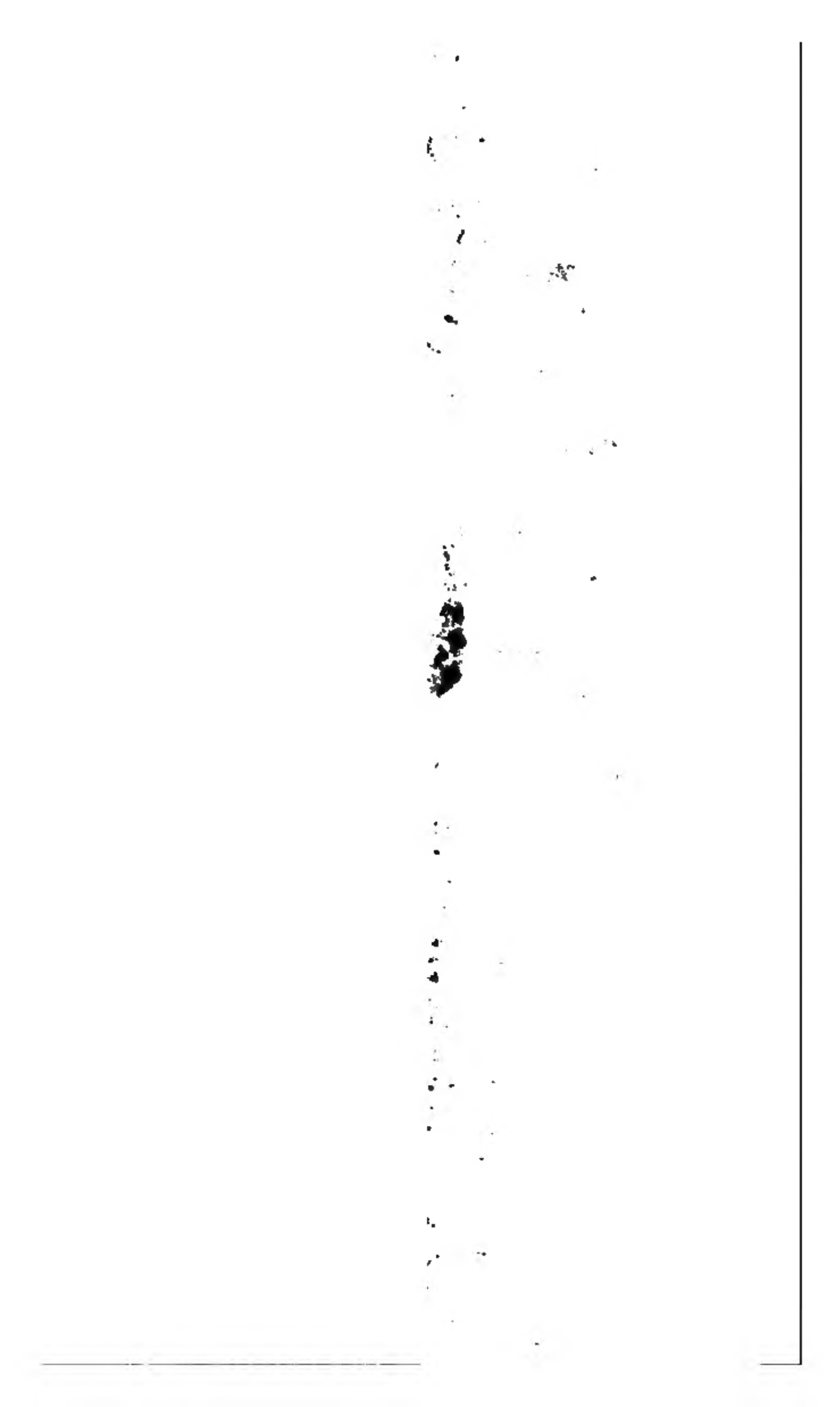
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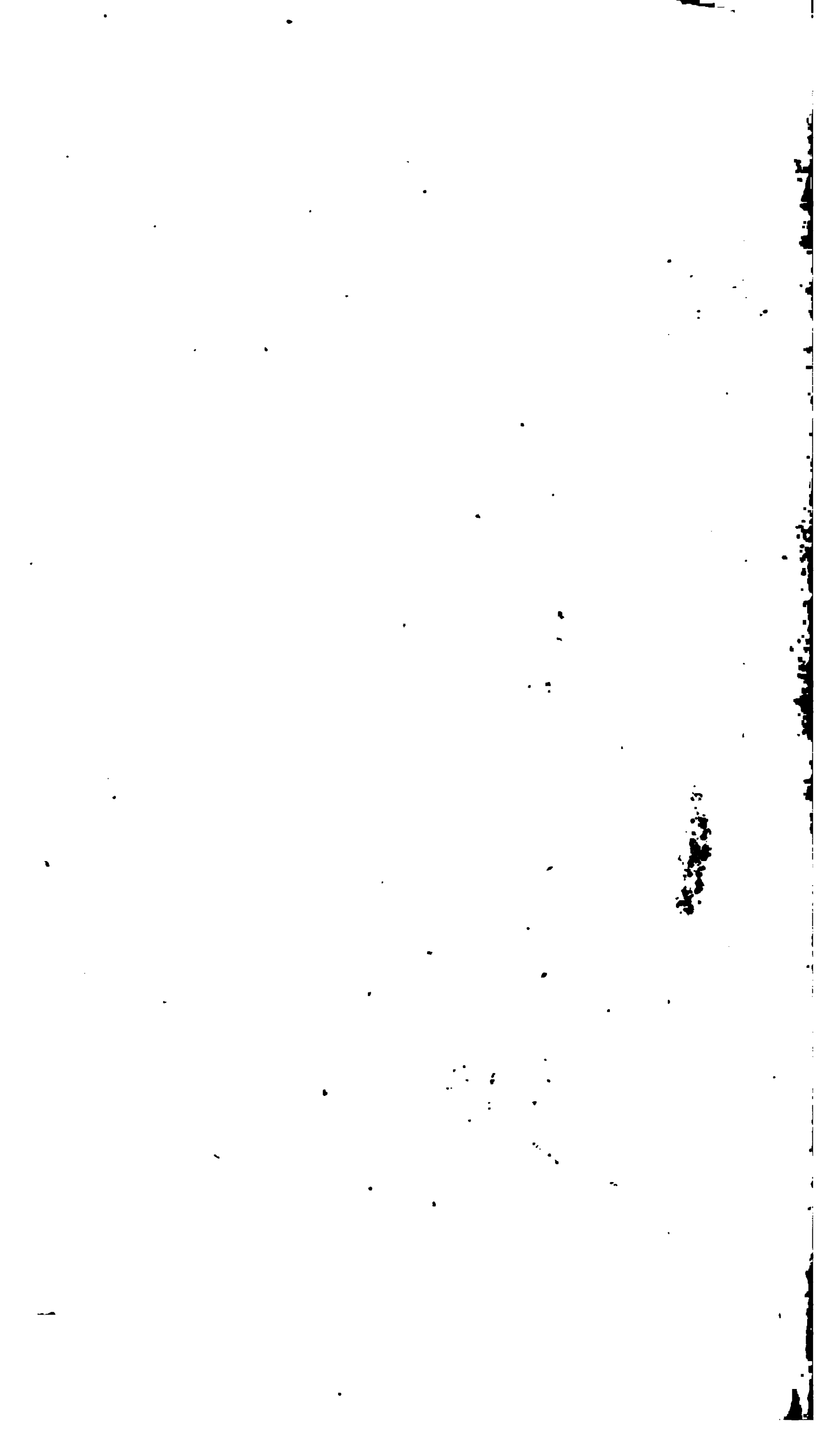
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1819

1819



A MANUAL

OF

THE LAWS OF NORTH-CAROLINA,

ARRANGED UNDER DISTINCT HEADS, IN ALPHABETICAL ORDER,

WITH REFERENCES FROM ONE HEAD TO ANOTHER, WHEN A SUBJECT IS MENTIONED IN ANY OTHER PART OF THE BOOK THAN UNDER THE DISTINCT HEAD TO WHICH IT BELONGS.

BY JOHN HAYWOOD, ESQ.

LATE ONE OF THE JUDGES OF THE SUPREME COURTS OF LAW AND EQUITY.

Fourth Edition, improved and corrected to the present time,

BY A GENTLEMAN OF THE PROFESSION.

RALEIGH:

PRINTED BY J. GALES.

AND MAY BE HAD OF THE PRINTERS AND BOOKSELLERS IN ALL THE TOWNS IN THE STATE.

1819.

UNITED STATES OF AMERICA,

District of North-Carolina, to wit :

CIRCUIT COURT CLERK'S OFFICE.

Be it remembered That on the Seventeenth day of November, in the Forty-third Year of the Independence of the United States of America, A. D. 1818, JOSEPH GALES, of the said District, hath deposited in this office the title of a Book, the right whereof he claims as Proprietor, and also the right to the order and arrangement of the Work, to wit:

"A Manual of the Laws of North-Carolina, arranged under distinct heads, in alphabetical order. With references from one head to another, when a subject is mentioned in any other part of the book than under the distinct head to which it belongs. By John Haywood, Esq. late one of the Judges of the Supreme Courts of law and equity. Fourth edition, improved and corrected to the present time by a Gentleman of the Profession."

In conformity to the Act of Congress of the United States, entitled "An Act for the encouragement of Learning by securing the copies of Maps, Charts and Books to the authors and proprietors of such copies during the times therein mentioned." And also to the Act entitled, "An Act supplementary to an act entitled an act for the encouragement of Learning by securing the copies of Maps, Charts and Books to the authors and proprietors of such copies during the times therein mentioned, and extending the benefit thereof to the Arts of Designing, Engraving and Etching, Historical and other Prints."

In testimony whereof, I, WILLIAM H. HAYWOOD, Clerk of the Circuit Court in and for the district aforesaid, have caused the same to be signed with my name, and the seal of office to be hereunto affixed, the day and date first above written.

WM. H. HAYWOOD, Clerk.

✓ 220385

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THE favourable reception which this Work has met with, and the present scarcity of the book in market, encourage the Proprietor to offer to the public another Edition.

Already have three Editions been sold out, and the demand seems not to abate. The form of the Work has been tested by experience and found to be convenient both to the Profession and to others.—Indeed, the facilities afforded by an alphabetical arrangement, to all who have occasion to consult many Acts on the same subject, are now manifest; and the Acts of Assembly passed since the last publication are so numerous and important, effecting, of course, such a change in the body of the Laws as to render a New Manual highly necessary.

This Edition is greatly improved by marginal notes, and by the correction of errors and omissions detected in the former Work; and comprises the Acts of Assembly down to 1817, inclusive.

Raleigh, November, 1818.

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MANUAL

OF THE

LAWS OF NORTH-CAROLINA.

ABATEMENT.

1777. CHAP. 2.

SECT. 81. NO plea in abatement shall be received in any action or suit in the county courts, unless the truth thereof be sufficiently shown to the court, by affidavit or otherwise; and in all actions where the declaration shall plainly set forth matter of substance for the court to proceed upon the merits of the case, the suit shall not abate for want of form in the proceedings; and where any plea shall be pleaded in any action, and upon argument thereof the same shall be adjudged insufficient to abate such action, the plaintiff shall recover against the defendant full costs to the time of overruling such plea, including the fees of court.

Truth of a plea in abatement to be supported by affidavit or otherwise.

Costs.

1785. C. 2.

II. § 2. No appeal, in any cause or court whatsoever, shall be abated by the death of either plaintiff or defendant; but may be proceeded on by application of heirs, executors, administrators, or assigns of either party.

Death not to abate appeals.

1786. C. 14.

III. § 1. In future, it shall and may be lawful for the heirs, executors, administrators, or guardians, to carry on every suit or action in courts, after the death of either plaintiff or defendant, and may be proceeded on by application in the same manner as appeals are carried on until death.

Death not to abate any suit.

1785, c. 2, § 2.

1798. C. 23.

IV. § 1. No suit now depending; or which may hereafter be brought in any court of law or equity, shall be discontinued on account of the plaintiff's marriage; and it shall be lawful for the husband of any woman having a suit pending, to make himself a party thereto, on motion at the next or succeeding term after his marriage, and the

Not married.

suit shall afterwards be carried on as if he and his wife had been originally plaintiffs.

Clerk to take bond from the husband. V. § 2. When application is made by any person who has married a feme sole plaintiff, to be plaintiff in the prosecution of any suit brought by his wife before marriage, it shall be the duty of the clerk of the court to take bond and securities for the payment of costs, in like manner and form as is usual in other cases, and in case of failing to prosecute with effect, the husband and his securities shall be held and deemed liable for the payment of costs, in the same manner as other plaintiffs who have failed to prosecute, and shall be subject to the same writs of execution; and upon said bond being executed, the security originally given for prosecution of the suit, shall be discharged from any liability thereon.

1799. C. 18.

Ejectment not abating by death of defendant. VI. § 1. No action of ejectment now pending, which may be hereafter pending, shall abate by the death of any defendant or defendants in said action; but the same may be revived, by serving on the heirs at law or devisees of said defendant, or the guardian or guardians within two terms after his decease, a copy of the declaration filed in said action, together with a notice to the heirs or devisees, or their guardian or guardians, if they be minors, to appear and defend said suit; and after such service, the suit shall stand revived, and shall be proceeded on in the same manner as if the defendant or defendants were living.

Guardians to be appointed for minors. VII. § 2. Whenever any of the heirs at law or devisees of any such defendant to whom the land in dispute shall descend or be devised, shall be minors, without guardians, the court wherein the said suit is pending shall be authorized and empowered, upon application, to appoint a guardian or guardians to defend such suit, on behalf of such minor or minors, who shall be next of kin to him or them, or such other person or persons as the court shall approve.

If heirs or devisees reside abroad, notice to be advertised. VIII. § 3. When any of the heirs or devisees, or either of their guardians, shall reside out of the state, the sheriff of the county to whom the declaration and notice shall issue, shall, upon making his return, state the fact, and an alias declaration and notice shall issue, and an advertisement of such notice shall be made in some public gazette of this state, and such as the court shall prescribe, for the space of three months; and if the

1799. C. 18 - 60uf 73

1797. C. 19. 17mm: 240

the return shall be made, and after such advertisement as aforesaid, the suit may be prosecuted in the same manner, and to the same effect, as if such declaration and writ had been served.

IX. § 4. Whenever any plaintiff or defendant in any suit shall die, and there shall be any contest for the administration on the estate of the deceased, or for the probate of any last will and testament of such deceased person, such suit shall be continued from term to term until said contest is determined, and until after the expiration of one term after such determination, when the same may be abated by plea. Suit to be continued till contest about probate or administration be determined.

X. § 5. No action of detinue or trover, or action of trespass, where property, either real or personal, is in contest, and such action of trespass is not merely vindictive; shall, in any cause or court, abate or be discontinued by the death of either party, plaintiff or defendant; but the same may and shall be revived in the manner prescribed for the revival of other cases. Trover or detinue not to abate by death.

1805. C. 8.

XI. § 1. From and after the passing of this act, no action of trespass *vi et armis*, or trespass on the case, instituted, or which shall hereafter be instituted in any of the courts of this State, to recover damages done to property, either real or personal, shall abate by the death of either plaintiff or defendant; but the same may be revived in behalf of, or against the representatives of any deceased plaintiff or defendant, under the rules and regulations prescribed for the revival and continuance of other actions. In what cases actions shall not abate.

See Amendment, 1. Attachment, 2, 6. Discontinuance, 3. Practice 2, 10, 11, 23. Process 3, 8, 12. Superior Courts, 2. Taxes, 19.

ACCESSORIES.

1797. C. 19.

I. § 1. From and after the passing of this act, it shall and may be lawful to prosecute and punish any accessory to felony, as for a misdemeanor; to be punished by a fine not exceeding fifty pounds, and corporeal punishment not exceeding thirty-nine lashes, or standing in the pillory not exceeding two hours, although the principal felon be not convicted of said felony, which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted. Accessories to be punished as for misdemeanor.

II. § 2. If any person shall receive or buy any property that shall be feloniously stolen or taken from any other person, knowing the same to be stolen, or shall harbour Receiving stolen property.

or harbor or conceal any such felon, knowing him, her or them
 ing or con- be so, such person or persons shall be taken and recei
 cealing the as accessories to said felony, and may be prosecuted as
 felon, to be a misdemeanor and punished as set forth in the preced
 prosecuted as for a clause, although the principal felon be not before convic
 misdemeanor of said felony ; which shall operate as a bar, and prev
 dor. the offender from being punished as accessory, if s
 principal felon shall be afterwards taken and convicted
 Provided always, that nothing in this act shall be so c
 strued as to prevent accessories to felony from being p
 secuted and punished as heretofore directed by law.

ACCIDENTS.

1787. C. 18

Books &
 papers de-
 stroyed.

I. § 1. Whereas, in the course of the late war, ma
 accidents have happened, by fire or otherwise, whereby
 books of accounts, bonds and other writings and
 pers of persons deceased, have been destroyed, and
 proofs of many debts, dues and demands due and owi
 to the said deceased persons, have been thereby render
 impossible ; and by means of the said accidents no rec
 very of the said debts, dues and demands can be had
 the ordinary course of law, and many orphans likely to
 greatly injured.

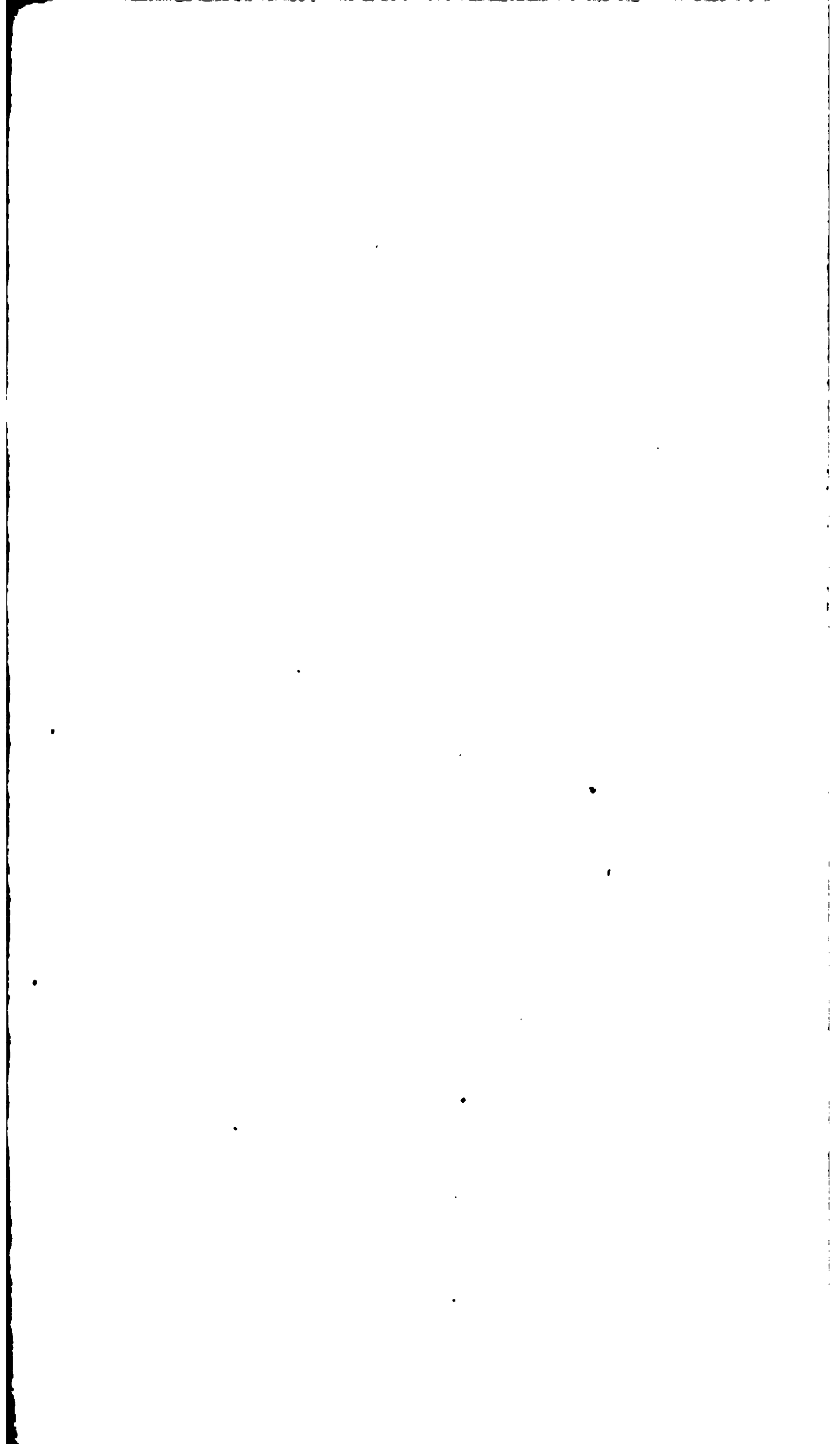
Remedy
 by petition

II. § 2. *Be it enacted, &c.* That in all such cas
 where the papers of any deceased person have been or sh
 hereafter be so destroyed by accident, due proof there
 being made to the court of the county, and entered o
 record by the directions of the court, it shall and may l
 lawful for the executors and administrators of such pe
 son to prefer a petition for the recovery of any debt or d
 mand due and owing from any person whatsoever, to th
 court of the county where the debtor resides, in the ma
 ner and under the regulations prescribed by the act, 176
 c. 5. § 23 ; therein setting forth the said debt and th
 amount thereof, as nearly as may be, and the approv
 ed origin thereof ; and such petition being filed in th
 clerk's office, the same proceedings shall be had therein
 and the defendant shall be bound and subject to the sam
 rules as in the 23d section of the said act and the las
 clause thereof is directed, as fully to all intents as if th
 said clause and every sentence thereof were herein parti
 cularly set down and expressed.

To ex-
 tend only
 to cases of
 accidents.

III. § 3. This act shall in no case be allowed to
 take place but only where papers have been accidentally
 destroyed ; not where it shall appear to the court on trial

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ADJOURNMENT.

There was used any kind of fraud to obtain the benefit of this act, in which last case the suit shall be dismissed with costs.

ACCOUNT OF SALES.

See Administrator & Executor 3, 7. Guardian 8, 13, 16, 18. Wills.

ACCOUNTS SETTLED.

See Administrator and Executor 8.

ACTS OF ASSEMBLY.

1799. C. 13.

I. § 1. From and after the passing of this act, all acts of the General Assembly of this state shall be in force only from and after thirty days after the rise of the session of the General Assembly in which such acts shall have passed and not before, unless in any act or acts the commencement of the operation of such act or acts shall be expressly otherwise directed. Acts of Assembly when in force.

ADJOURNMENT.

1777. C. 2.

I. § 59. If by reason of indisposition or other inability, bad weather or other accidents, it shall so happen that a sufficient number of justices shall not meet, for holding the said courts or any of them on the days by this act appointed; in such case it shall and may be lawful for any one justice to adjourn the court whereof he shall be a member, from day to day, not exceeding three days, until a sufficient number of justices can attend to hold the court. One justice may adjourn the court.

1792. C. 20.

II. § 3. If the judge or judges of the several superior courts of law and courts of equity should fail to attend on the first day of the term of any of the said courts respectively, it shall and may be lawful for the sheriff of the county where the said courts shall be held, and he is hereby authorised to adjourn the said court or courts, from day to day, for any term not exceeding three days; and if the said judges, or any one of them, do not attend on or before the expiration of the third day of the term of the said courts respectively, it shall and may be lawful for the said sheriff to adjourn the said court or courts to the term next in course. Sheriff may adjourn the Superior courts.

See County Courts 1. Superior Courts 5, 8.

ADMINISTRATOR AND EXECUTOR.

1715. C. 48.

Penalty for entering on the estate of intestates.
a Where to be obtained.
See Wills.

I. § 4, 5. No person shall presume to enter upon the administration of any deceased person's estate, until they have obtained such commission of administration, letters testamentary, under the penalty of fifty pound one half to the informer and the other half to the governor or commander in chief for the time being, to be recovered by bill, plaint or information, in general court this province ; wherein no essoin, protection or wager of law, shall be allowed or admitted of.

Form of the Condition of the Administration Bond.

Form of the condition of the above obligation is such, that if the above bounden A B, administrator of all and singular the goods and chattels, rights and credits of C D, deceased, do make or cause to be made a true and perfect inventory of all and singular the goods and chattels, rights and credits of the said deceased, which have come to the hands, possession, or knowledge of the said A B, or into the hands and possession of any other person or persons for him, and the same so made do exhibit, or cause to be exhibited to the precinct court where orders for administration passed, within ninety days after the date of these presents ; and the same goods, chattels, and credits, and all other the goods, chattels, and credits of the said deceased, at the time of his death ; or which at any time after shall come to the hands or possession of the said A B, or into the hands or possession of any other person or persons for him, do well and truly administer according to law ; and furthermore make or cause to be made, a true and just account of his said administration, within two years after the date of these presents and all the rest and residue of the said goods, chattels, and credits which shall be found remaining upon the said Administrator's account, the same being first examined and allowed by the precinct court, shall deliver and pay to such person or persons respectively as the same shall be due unto, pursuant to the true intent and meaning of this act ; and if it shall appear that any last will and testament was made by the deceased, and the executor or executors therein named, do exhibit the same into court, making request to have it allowed and approved accordingly, if the said A B, above named, being thereunto required, do render and deliver the said letters of administration, approbation of such testament being first had and made in the said court ; then this obligation to be void and of none effect, or else to remain in full force and virtue.

1723. C. 10.

Inventory, See Wills, X.

III. § 2. Every executor or executrix, administrator or administratrix, shall some time before, or at the next precinct court after his, her, or their entering on the administration of any deceased person's estate, draw, or cause to be drawn, a just, true and perfect inventory of all the goods and chattels of the deceased (such only excepted as by the aforementioned former law are reserved

ADMINISTRATOR AND EXECUTOR,

7

to remain to the use of orphans not of age till they arrive
to full age, or such as are by special legacies particularly
bequeathed) which inventory shall be exhibited at the
respective courts of the precinct in which the said goods
are, and attested on oath by the persons exhibiting the
same; and shall give notice by advertisement at the court
house door of the precinct during the court's sitting, that
on the day of which shall be some days before
the next succeeding court, the said goods will be exposed
to public sale to the highest bidder, at the place where
the said goods are reserved and kept, and the executors
and administrators shall, on oath, render a true account
of such sale to the next court immediately succeeding
such sales, and shall accordingly be accountable for the
same to such persons as by law is provided.

Adver-
tisement.

Account
of sales.

§ 3. In case the estate of any person deceased shall
be so far indebted as that the debts cannot be discharged
by the sale of what are deemed perishable commodities,
that then and in such case the executors or administra-
tors shall, and they are hereby empowered and required
to expose to sale, in like manner as aforesaid, by the di-
rections of the precinct court, such part of, and so many
of, the unperishable goods directed by the before-men-
tioned act, to be kept and reserved in kind, as will pay
and satisfy all such debts and demands.

Unperish-
able goods
when to be
sold.

XVII
XVIII

1762. C.5.

IV. § 23. All legacies, filial portion, distributive
shares, of intestates' estate, sum or sums of money, or
other estate, due or owing from any person appointed
guardian to any orphan, or from any executors or admin-
istrators, or other person whatsoever, shall and may be
recovered by petition to the superior courts of the districts,
or any inferior courts of pleas and quarter-sessions, res-
pect being had to the jurisdiction of the said court; and
that in all suits by petition as aforesaid, and in the said
courts respectively, the following rules and methods shall
be observed.

Legacies
shares and
money due
from guar-
dians or
adminis-
trators or
others, how
recovera-
ble.

The petitioner shall file his petition in court upon exhi-
biting the same, and thereupon summons shall be issued
by the clerk of course, and that upon the defendants' be-
ing served therewith, and with a copy of said petition,
he shall appear and put in his answer or plea, upon oath,
or demur.

Petition.

That upon an answer, plea, or demurrer, being filed as
aforesaid, the petitioner may move the court to have the
same set for hearing, and immediately argued, and there-

Plea, an-
swer or de-
murrer.

ADMINISTRATOR AND EXECUTOR.

upon the court shall proceed to hear and determine same according as the matter in equity and law shall appear to them, without regard to form or want of form the petition, process, or course of proceedings.

When
petition to
be taken
pro confes-
so.

That upon the defendant's being served with a summons, and a copy of the petition, ten days before court to which such summons is returnable, and oath made thereof, if he shall fail to appear and plead, answer or demur, as aforesaid, the petitioner's petition shall be taken pro confesso, and the matter thereof decreed according with costs; unless on special reason shewn to, and approved of, by the court, time shall be allowed such defendant to file such plea, answer or demurrer.

Costs.

That upon the petitioner dismissing his petition, or the same being dismissed for want of prosecution, he shall pay costs.

Pro con-
fesso.

And if any defendant shall appear on such summons and shall obstinately refuse to answer the petition of the petitioner, the same shall be taken pro confesso, and the matter decreed as aforesaid.

Every defendant shall be at liberty to swear to his answer or plea before any justice.

Plea or
demurrer
overruled
to answer.
Replica-
tion.

That when a plea or demurrer shall be overruled, the defendant shall file his answer the same court.

That when the petitioner shall be minded to disprove the answer of the defendant, and support his claims, he may reply.

Commis-
sion.

Commissions to examine witnesses may be awarded by the court, after replication filed, the party taking out such commission giving the adverse party ten days notice of the time and place of executing the same.

Execu-
tion against
body, and
goods and
chattels,
lands and
tenements.

And that upon a decree being made upon any such petition, it shall and may be lawful for the court who shall make the same, to grant execution against the defendant's body, goods and chattels, lands and tenements, for satisfying such decree and costs; any law, usage or custom to the contrary notwithstanding.

1777. C. 2

C. Court
to grant
letters.
a See w. l's.
b Par. XV.
c See Wi-
dows, Par.
VIII.

V. § 62. The courts of pleas and quarter sessions, shall and may make orders for issuing letters testamentary and letters of administration; which letters shall be signed and issued by the clerk of said court.

VI. § 63. If any person who shall claim a right to execute any will or to administer the estate of any intestate, and shall think himself injured by order of court

18-59 60- 2 M: 60m 504

1715. C48 88, Accuⁿ shall be granted
the next of kin. and for want of
to the nearest creditor proving his
claim on oath —

Property undivided of the
seven years given to the witnesses
1809 C2 —

1786. C4 - Rent 20 $\frac{1}{10}$ lbm: R 409

1786, C28 Le Miley, SX

ADMINISTRATOR AND EXECUTOR,

9

for letters testamentary or of administration, shall be entitled to an appeal to the superior court of the district where such order shall be made, subject to the same regulations, as in other cases of appeal; and such superior court is hereby declared to have cognizance thereof, and shall at their sitting next succeeding such appeal, determine the same and upon such determination had, such court shall proceed to grant the letters to the person entitled to the same, he or she giving bond, with sufficient security, for the faithful discharge of the trust.

Appeal to Superior Court.

VII. § 64. All original wills, inventories and accounts of executors and administrators shall remain in the clerk's office, among the records of the respective counties where the same shall be proved or exhibited, and to the said wills, inventories, and accounts, any person may have access as to the other records, except for the time they shall or may be removed before any other court upon the determination of any controversy.

Wills, inventories, & accounts — where to be kept.

1784. C. 23.

1803 C3

VIII. § 2, 3. As soon as an administrator shall have finished his administration on such estates, and no creditor shall make any further demand, the residue of such estate *not recovered by any of kin to the deceased, or by any creditor, in seven years*, shall be deposited in the treasury, there to remain without interest, subject to the claim of the lawful representatives of such decedent, without being subject to limitation or time; and the treasurer in all such cases may demand payment of such administrator, and on refusal or delay, give notice of thirty days to appear and show cause why he refuses or delays payment, and on non-appearance enter up judgment, and thereon proceed to execution.

When Administrator has finished his administration, any residue to be deposited in the treasury.

1786. C. 4.

IX. § 2. Executors and administrators, in the payment of the debts of their testators and intestates, shall hereafter hold and consider debts due upon bills, bonds, and promissory notes, whether with or without seal, and all settled and liquidated accounts signed by the debtor, as of equal dignity, and shall pay the same accordingly: *Provided always, that executors and administrators shall in all other respects, except as aforesaid, have the same right of preference in the payment of creditors which they have heretofore had and held under the laws then in force.*

Bills bonds notes and settled accounts of equal dignity.

1789. C. 23.

X. § 2. No executor or administrator shall hereafter take, hold, or retain in his hands, more of the deceased's

Property to be delivered.

vered over estate than amounts to his necessary charges and d
in 2 years. bursements, and such debts as he shall legally pay wi
a Par. in two years after administration granted, but that
XXII. such estate so remaining, shall immediately after the e
piration of two years be divided, delivered, and pr
over to such person or persons to whom the same m
be due by law or the will of the deceased; such pers
or persons, or some other for them, giving bond with t
or more able sureties, that if any debt or debts tr
owing by the deceased, shall be afterwards sued for a
recovered, or otherwise duly made appear, that th
and in every such case, he or they shall respectively
fund and pay each his or her rateable part of that debt
debts, out of the part or share so as aforesaid allotted
him or her; and such bond, so taken, shall be made pa
able to the chairman of the county court for the time l
ing, and his successors; which said bond shall be a
enure to the sole use and advantage of the creditors, a
such creditor or creditors shall and may have a sc
facias, in manner hereinafter directed, against the ob
gors in the said bond, as if the said bond had been dra
and delivered to such creditor or creditors.

Bond to
refund.

Bond to
be lodged
in court.

Scire
facias,
when to is-
sue on
such bonds

Creditors,
when bar-
red.

XI. § 3. The bond so taken by executors or adn
ministrators from legatees, or persons entitled to a distrib
tive share of the estate of an intestate, shall by such ex
cutor or administrator be brought into court at the ne
succeeding court after such bonds are so taken, and
record shall be made thereof, and the bonds then lodg
in the office of the said court, with the records of t
court; and in all suits where the executors or admin
trators of any deceased person shall plead fully admin
tered, no assets, or not sufficient assets to satisfy t
plaintiff's demand, and such plea shall be found in favo
of the defendant, the plaintiff may proceed to ascerta
his demand and sign judgment, and, on motion, a writ
writs of scire facias shall and may issue, summoning su
persons who have entered into bond as aforesaid, to sho
cause why execution should not issue against them f
the amount of such judgment; & if there shall be judgme
against the defendant or defendants to the scire facia
or any of them, execution shall and may issue there
against the proper goods and chattels, lands and tenement
of such defendant or defendants.

XII. § 4. The creditors of any person or perso
deceased, if he or they reside within this state, shall wit
in two years, and if they reside without the limits of th
state, shall within three years, from the qualification

1791 C 10 - See S 25
2 Law Rep'n 463

the executor or administrator, exhibit and make demand of their respective accounts, debts, and claims of every kind whatever, to such executors or administrators; and if any creditor or creditors shall hereafter fail to demand and bring suit for the recovery of his, her, or their debts, as above specified, within the aforesaid time limited, he or they shall be forever debarred from the recovery of his, her, or their debt, in any court of law or equity, or before any justice of the peace within this state: ^{Savings for certain persons,} Provided that nothing in this act shall extend to debar infants, persons non compos, or femmes covert, to bring their several actions after the expiration of the term above mentioned, provided such actions be brought within one year after the coming to lawful age, sound mind, or discoveriture of such persons; Provided also, that if any creditor, who after making demand of his debt or claim, shall delay to bring suit at the special request of ^{If delay requested,} the executors or administrators, that then and in that case, the said debt or demand shall not be barred during the ^{not barred.} time of the indulgence.

XIII. § 5. Every executor or administrator shall, ^{To advertise creditors,} within two months after being qualified as executor or administrator, advertise at the courthouse of the county where the deceased usually dwelt at the time of his death, and other public places in said county, and at the district courthouse at the next district superior court of law & equity, held for the district in which such county may be, for all persons to bring their accounts and demands of every kind and denomination to the said executor or administrator, agreeably to the directions of this act.

1791. C. 10.

XIV. All administration bonds shall be taken and ^{Administration bonds, to whom made payable.} made payable to the chairman of the court for the time being, and his successors in office; which bond shall and may be put in suit at the instance of any person injured, in the name of the chairman of the court, without any assignment whatever.

1791. C. 22.

XV. § 5. Executors and administrators shall, at all times with such bond (*required by paragraph X,*) take ^{To return lists of property delivered,} and return a descriptive list of the property by them delivered to the different legatees and persons entitled to distributive shares; and this list shall be filed by the clerks of the courts to which such returns are made, with the bonds respectively among the records of the said courts.

1792. C. 7.

1715 (48, 5

Who en-
titled to
administer
a See Wi-
dow, par.
VIII.

XVI. In future the greatest creditor residing within the state (*proving his debt upon oath*, 1715, c. 48, § 1) shall be entitled, after the widow^a and the next of kin, to the administration of the estate of any deceased person.

1793 C 18.

Sheriff,
when al-
lowed to
sell.

XVII. It shall not be held or be deemed to be the right or the duty of the sheriff, to sell or dispose of the estate of any deceased person, except where the administration may be granted to the creditor or creditors of the deceased; in which case the sheriff shall be allowed by the court, so as such allowance does not exceed two and an half per cent. any law to the contrary notwithstanding.

1794. C. 14.

When
goods, &c.
to be sold.

XVIII. § 1. The meaning and operation of the said acts (*authorising and directing the sale of personal perishable estate by executors or administrators—see page III.*) are, that when the estate of any person deceased shall be so far indebted as that the debts cannot be discharged by the monies on hand at the death of the testator, or where a sale shall be deemed necessary for a just and proper distribution and division of such person's estate, that then it is and shall be the duty of every executor or executrix, administrator or administratrix, to sell and dispose of the goods and chattels of his or her testator or testatrix, or intestate, first obtaining an order of the court of the county for that purpose, for the money that may be gotten for the same by public sale, having first advertised the same at the courthouse and four other public places within the county, at least twenty days before the sale; and shall, for enhancing the price thereof, give not less than six months credit, upon bond and security given; and that such executor or executrix, administrator or administratrix, shall, after the time of such payment is past, take & pursue all lawful ways & means to recover & receive the money so due as aforesaid, or otherwise shall be chargeable and answerable for the same; and that such monies, when received, shall be liable to the satisfaction of judgments previously obtained, and entered up as a judgment when assets should come to the hands of the executor or administrator.

Goods sold
where as-
sets.

Not to in-
terfere
with the
will.

XIX. § 2. Nothing in this act shall be construed to affect the powers, trusts, or authorities of an executor or executrix, derived from the will of his or her testator or testatrix.

1762
255X

1794 C12 ten days-

~~1797-68~~

1797. C 8. The money goes to the ex-
ecutor tho the heir must make
title 3 Hay: 12 115-

XX. § 3. The naming or appointing any person executor, shall not be considered as a discharge of any debt or demand due from the person so named as executor to the testator.

Debtor appointed executor shall not extinguish debt.

1797. C. 8.

XXI. Executors or administrators of any deceased person, are fully authorised and empowered to execute a deed or deeds of conveyance for any lands that may have been bona fide sold by the deceased, and for which he has given to the purchaser a bond or bonds to convey the same; Provided such bond or bonds be first proven in the court of the county where the said lands are situated, if in this state, if not, the bonds to be proved in the county where the obligee lives or obligor died; and which bond so proven, shall be recorded and registered in the register's books of said county; and provided the deeds thus executed shall not convey other or a greater quantity of land, or higher titles than were specified in said bonds: And all deeds thus executed shall be as good and valid in law as the same would have been if executed by the original obligor: And provided also, that no executor or administrator, shall be authorised under this act to execute titles previous to the full payment of all the purchase monies due for said lands, if the bond of performance specifies that the purchase monies were to be paid before the title should be made.

To execute deeds for lands sold.

1799.

XXII. That part of the 9th section of 1715, which follows, shall be in full force, viz. *Creditors of any person deceased shall make their claim within seven years after the death of such debtor, otherwise such creditor shall be forever barred.*

Creditors barred.

XXIII. The several courts of this state shall, in making allowances of commissions to guardians, executors, and administrators, take into consideration the trouble and time expended in the management of any deceased person's estate, and shall make an allowance of commissions not exceeding five per cent. for the amount of the receipts & expenditures which shall appear to be fairly made in the management of any such deceased person's estate. Any allowance made shall be held and deemed a proper and fair charge against the assets in the hands of any such guardian, executor, or administrator; and he, she, or they shall and may retain for the same, as well against any creditor of the deceased, as against persons claiming as legatees, or as being entitled to distributive shares

Courts in allowing commissions, to consider trouble &c

of such deceased person's estate : Provided, that nothing herein shall be construed to prevent any executor, guardian, or administrator, from retaining, for necessary charges and disbursements, in the same manner as has been heretofore allowed by law.

1804. C. 27.

Executors and administrators to take a copy of the advertisement put up, which shall be filed in the clerk's office.

a See par. XII, XIII.

XXIV. § 1. Every executor and administrator shall take a copy or copies of the advertisements which he, she, or they shall put up or cause to be put up, in pursuance of the above recited act^a, which copy or copies with an affidavit made thereon before some justice of the peace of the county in which advertisements are by said act directed to be made, by some competent witness, stating therein the time and times, and place and places, when and where the said advertisements were seen, shall, at the term of that county court next following that in which any last will and testament shall have been admitted to probate, or any administration shall have been granted, be filed in the office of the clerk of said court: And the copy or copies attested as aforesaid, shall be considered as a record of said court; and the same with the certificate of the clerk thereof, certifying that the said copy or copies, was or were filed at the time herein required, shall be received as evidence in any court of law or equity, or before any other jurisdiction in this state. Provided always, that nothing herein contained shall be construed as to preclude any executor or administrator from proving his, her, or their compliance with the requisites of the 5th section of the said recited act, in any manner which may be deemed competent by the said courts of law and equity of this state.

1805. C. 16.

XV. § 1. Every executor or administrator who shall have advertised agreeable to the act of one thousand eight hundred and eighty-nine, may, within nine months after the passing of this act, establish the same in the manner prescribed by the act of one thousand eight hundred and four, and such notice, so proved, shall be admissible as evidence in any court of law or equity, or before any jurisdiction.

C. 17.

XVI. All administration bonds taken and made payable to the governor and his successors, after the twentieth day of May, in the year one thousand seven hundred and ninety two, may be put in suit in the name of the governor for the time being, by any person injured

4805. G 18- 2 Bar: L. Repa? 463

1806. C 12 - See lands Sec 7-

Without any assignment, and judgment shall and may be recovered thereon in any of the courts of record in this state. may be put in suit.

1806. C. 12.

XXVII. From and after the passing of this act, the provisions of an act passed at Fayetteville in the year one thousand seven hundred and eighty-nine, entitled "An Act directing the mode of proceeding against the real estate of deceased debtors, where the personal estate is insufficient for the payment of the debts," shall, and the same is hereby declared to extend to executors and administrators generally, under the same rules, regulations, and restrictions as are by the said act required. The provisions of the act of 1789 to extend to executors & administrators.

See Abatement 2. Accidents 2. Escape 2. Intestates' Estate 1, 2.—Joist and Several Contracts 1 2. Lands 5, 7. Practice 22. Sales and Auctions 1, 2. Set-off 1. Slaves 80, 81. Suicide 1. Taxes 1, 12, 19. Widows 3, 5, 6, 7, 8, 9, 10. Wills 2, 10.

1807. C. 5.

XXVIII. § 1. In all suits where executors or administrators of any deceased person shall omit to plead fully administered, no assets, or not sufficient assets to satisfy the plaintiff's demand, or where they shall plead the said pleas, or any of them, and the same shall be found against such executors or administrators, and they shall be, or afterwards become insolvent, so that the creditor cannot procure satisfaction for his demand, such creditor shall and may have the same remedy against the real estate of such deceased debtor in the hands of the heirs or devisees, and the same process as is provided by the afore-said act; and if judgment be rendered against the heirs or devisees, or any of them, execution shall and may issue against the real estate of the deceased debtor in the hands of such heirs or devisees: Provided, that no creditor shall be entitled to the remedy aforesaid against the heir or devisee, who shall be guilty of any negligence or collusion in prosecuting his suit, whereby the executor or administrator shall become insolvent, to the detriment of the heir or devisee, which negligence or collusion such heir or devisee may show on an issue joined under the direction of the court before whom the trial shall be had. Remedy to be had where executors fail to plead.

XXIX. § 2. When any heir or devisee of real estate, against whom judgment may pass, shall transfer or alien the same, such heirs or devisees shall be liable to the creditors in their proper estate to the value of such estate so transferred or aliened, which value shall be ascertained by the jury impannelled to try the issues joined on the proceedings between the said parties, and execution shall and may issue accordingly. If an heir &c. transfer property, he is liable in his own proper estate.

Course to
be taken,
when cre-
ditors
claim
judgment
against
real estate.

XXX. § 3. When any creditor of a deceased person claims to have judgment against the real estate of a debtor in the hands of the heirs or devisees, by reason of the executors or administrators failing to plead the pleas aforesaid, or on account of the insolvency of the executors or administrators as herein before mentioned, the heirs or devisees of such deceased debtors shall not be permitted to show, as heretofore, that the executors or administrators have assets, and on an issue between them and the creditor that the executors or administrators are not insolvent, but have property sufficient to pay the whole or whole of the debt demanded and costs; and if the said issues shall be found in whole or in part for the heirs or devisees, judgment shall be rendered accordingly, otherwise for the creditor.

Nothing
herein to
repeal
former act.

XXXI. § 4. Nothing herein contained shall be construed to repeal the aforesaid act (*directing the mode of proceeding against the real estates of deceased debtors when the personal estate is insufficient for the payment of debts* 1784, c. 11—see *Lands*), or any part thereof, this being intended only to extend the remedy provided by said act for creditors against the real estate of their deceased debtors; nor shall the provisions contained in this act affect the remedy which any creditor has or may have in equity, against the real estate of any deceased debtor in any manner change the rules of decision in equity in any such case.

Collateral
issues

1810. C. 10.

When to
be tried.
See

XXXII. When any collateral issue shall be ordered to be made up between the executors or administrators and the heirs or devisees, in pursuance of the said fifth section of the above recited act, the same shall be tried at or before the second term thereafter of the court where the same shall be ordered, and in default thereof, judgment shall be rendered against the lands of said deceased debtor in favor of the original plaintiff, agreeable to statute, unless on sufficient cause shown to the court, a postponement shall be given for the trial of said issue.

Remedy of Administrator against the Real Estate of his Intestands, par. VII.

1813. C. 9.

XIII. When a testator or testatrix shall appoint a person residing out of this state executor or executrix of his last will & testament, it shall be the duty of the court at the next assizes and quarter sessions, before which the said will

shall be offered for probate, to cause the executor or executrix named thereon to enter into bond with good and sufficient security for his or her faithful administration of the estate of the said testator or testatrix, and for the distribution thereof in the manner prescribed by law ; which bond shall be made payable to the chairman of the said court and his successor in office, and the penalty thereof shall be double the supposed amount of the personal estate of the said testator or testatrix, and until the said executor or executrix shall enter into such bond, he or she shall have no power nor authority to intermeddle with the estate of the said testator or testatrix, and the court of the county in which the testator or testatrix had his or her last usual place of residence shall proceed to grant letters of administration with the will annexed, which shall continue in force until the said executor or executrix shall enter into bond as aforesaid. *Provided nevertheless*, and it is hereby declared, that the said executor or executrix shall enter into bond as by this act directed, within the space of one year after the death of the said testator or testatrix and not afterwards ; and all persons residing out of this state who have heretofore been appointed executors of any last will or testament of any person residing within this state, shall, within twelve months after the passing of this act, enter into bond in manner herein prescribed, otherwise all their powers as executors to intermeddle with the goods and effects of his or her testator or testatrix now remaining within this state, shall cease and determine, and the court of the county to which the will of the said testator or testatrix was proved or hereafter shall be proved, shall proceed to grant letters of administration on his or her estate with the will annexed, to some discreet person or persons : *Provided always*, that nothing contained in this act, shall affect the rights of such executor, so far as relates to his undertakings for his testator or his power of retainer.

1816. C. 15.

XXXIV. Whereas great loss to estates is sometimes suffered, where persons die intestate during the recess of the county courts, for the want of authority, in some person, to collect the assets, and to expose to sale such parts thereof as are likely to perish, or be much impaired in value, before the sitting of the next court of pleas and quarter sessions of the county in which the said deceased had his last usual place of residence—

It is enacted, that where any person shall die intestate,

Special
letters of
adminis-
tration
granted.

and his or her estate is in such situation as to require the immediate care of some discreet person, it shall be lawful for any three justices of the peace of the county in which the deceased had his or her last usual place of residence, to meet together at the clerk's office of the said county, and to grant to some discreet person special letters of administration on the estate of said deceased, authorising and empowering said person to collect and take into his or her possession the estate of the said deceased, until the next ensuing court of pleas and quarter sessions of said county, and to expose to public sale upon a credit of not more than twelve nor less than six months, so much of the crop, stock, and provisions on hand, as the said three justices may deem advisable; and a schedule of such stock, crop and provisions so directed to be sold, shall be made out by the said three justices, and a copy thereof signed by them shall be filed with the clerk of the said county and the said justices, before granting letters of admini-

Bonds to
be taken
and filed.

stration as aforesaid, shall require, and take from the person to whom the same shall be granted, bond with approved security in such sum as the said three justices shall order and direct, conditioned for his or her faithful administration of the said estate, until the next ensuing court of pleas and quarter sessions of the said county, and for his or her faithfully accounting for and delivering over the said estate to such person or persons, as the said court shall appoint as administrator of the said estate. And the said bond shall be filed with the clerk of the said county court, for safekeeping, and the said county court shall proceed to grant general letters of administration to such person or persons as are or may be legally entitled to the same; and the same fees shall be allowed to the clerk of the said court for taking the bonds first mentioned as aforesaid, as are allowed by law for taking bonds in common cases of administration: Provided, that nothing in this act contained shall prevent the family of the deceased from using the crop, stock, and provision of the deceased, until the granting of the said special administration; nor affect or impair the rights of the widow, to a year's allowance as now established by law.

Clerk's
fees.

See Wills.

AFFIDAVITS.

1784. C. 13.

I. § 2. From and after the passing of this act, the judges may appoint, and are hereby directed to appoint

Executors to give bond in certain
cases 1807. C. 21 - 1813. C. 55 - L. 4: C.

Ex. & Adm. not compelled to plead till
the expiration of nine calendar months
from the time of his qualifying as Ex. or Adm.
1825. C. 8. 1

Warranted and on trial suggests a
deficiency of assets - Justice to note the sug-
gestion and to return proceeding to the
first term of the next Court -

1828. C. 8.

Adm. resident within the State compellable
to give other security
Warranted a new 1826. C. 23 (See 1822. C. 9)
Adm. or Ex. not ~~to~~ compelled to plead
till 9 mo. after administering -

Adm. or Ex. warranted may suggest a
deficiency of assets - Justice to note the
suggestion & return the proceeding to Court -
J. J. permitted to enter the plea at the
Court -

1828. C. 8

The Commencement of a suit - as an Ex.
or Adm. not to create a lien on the
goods & dec^t -

1828. C. 8

He does not in force after 1 June 1829.

1828. C. 8.

A copy of the Record of a case or of letters of
the same & copy of the inventory of a case made
as early to the laws of the State where the same was
made & certified agreeably to a Act of Congress
1800 or to the proper Officer of the State &

1784. C13 repealed 1878. C6.

Clerks & ~~Blacks~~ Masters to take &
certify affi^o 1878. C52

X The further testimonial of the Sec. of the
that the person certifying is the proper
and duly authorized state to read in
-dence as copies from any of the Clerk's offices.
This is 1834 C4.

~~1800~~ 1790. C5 - Act of Congress 1789
Cong^t. Rep 413.

one prudent and discreet person in each county, as a commissioner for taking affidavits relative to all causes about being instituted or depending in any of the courts of law and equity within this state, on which affidavits being certified by such commissioner to have been taken before him, the same process, orders and rules may issue from said courts or the judges thereof respectively, as if the matter in said affidavits contained had been sworn to before the said judges in term time or in the vacation.

II. § 3. The person under this act appointed by the judges are hereby declared to have the authority thereto competent.

ALLEGIANCE.

CONSTITUTION.

I. § 10. Every foreigner who comes to settle in this state, having first taken an oath of allegiance to the same, may purchase, or by other just means acquire, hold and transfer land or other real estate.

1777. C. 6.

II. All and every person and persons who shall voluntarily come into this state hereafter to inhabit or reside, do owe and shall pay allegiance to the State of North Carolina.

AMENDMENT.

1790. C. 3.

I. § 9. No summons, writ, declaration, return, process, judgment, or other proceedings in the civil causes in any court of record, shall be abated, arrested, quashed, or reversed, for any defect or want of form; but the said courts respectively shall proceed and give judgment accordingly, as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form, in such writ, declaration, or other pleading, return, process, judgment, or course of proceeding whatsoever, except those only in cases of demurrer, which the party demurring shall specially set down and express, together with his demurrer, as the cause thereof. And the said courts respectively shall and may, by virtue of this act, from time to time, amend all and every such imperfections, defects, and want of form, other than those only which the party demurring shall set down as aforesaid, and may at any time permit either of the parties to amend any thing in the process or pleadings.

Want of form, not to vitiate proceedings.

Amendments to be allowed of.

upon such condition as the said courts respectively shall, in their discretion, and by their rules, prescribe.

APPEALS AND ERRORS,

1777. C. 2.

Writ of
error from
superior
court.

I. § 47. The said superior courts shall have power and authority to grant writs of error for correcting errors of any inferior court: and the party praying such writ before the same shall issue, shall assign error, and give bond and security to the satisfaction of the court to abide by, perform, and fulfil the judgment which shall be given thereon by such court; and if, upon argument of any writ of error, or trial of any appeal from an inferior court, the judgment or decree of the inferior court shall be reversed, the superior court shall grant judgment, and make such decree thereupon as should have been made up or entered in such inferior court, and shall and may issue execution thereupon, without granting a writ of procedendo; and to prevent the obtaining of writs of error by surprize, the party praying such writ in a civil cause, shall give notice in writing to the adverse party, at least ten days before motion of his intention to move for such writ, and no such writ shall be granted without affidavit of such notice.

Appeal.

II. § 82. When any person or persons, either plaintiff or defendant, shall be dissatisfied with the sentence, judgment, or decree of any county court, he may pray an appeal from such sentence, judgment, or decree, to the superior court of law of the district wherein such county court shall be; but before obtaining the same, shall enter into bond, with two sufficient securities, for prosecuting the same with effect, and for performing the judgment, sentence, and decree, which the superior court shall pass or make thereon, in case such appellant shall have the cause decided against him.

Writ of
error in
the county
court.

III. § 83. When any person shall be desirous to prosecute a writ of error, he shall move the county court of pleas and quarter sessions, where such suit is or hath been depending, to allow a writ of error, he first entering into bond as before directed in cases of appeals; and the court is hereby empowered and required to allow thereof as if such writ of error should be then and there produced from the superior court.

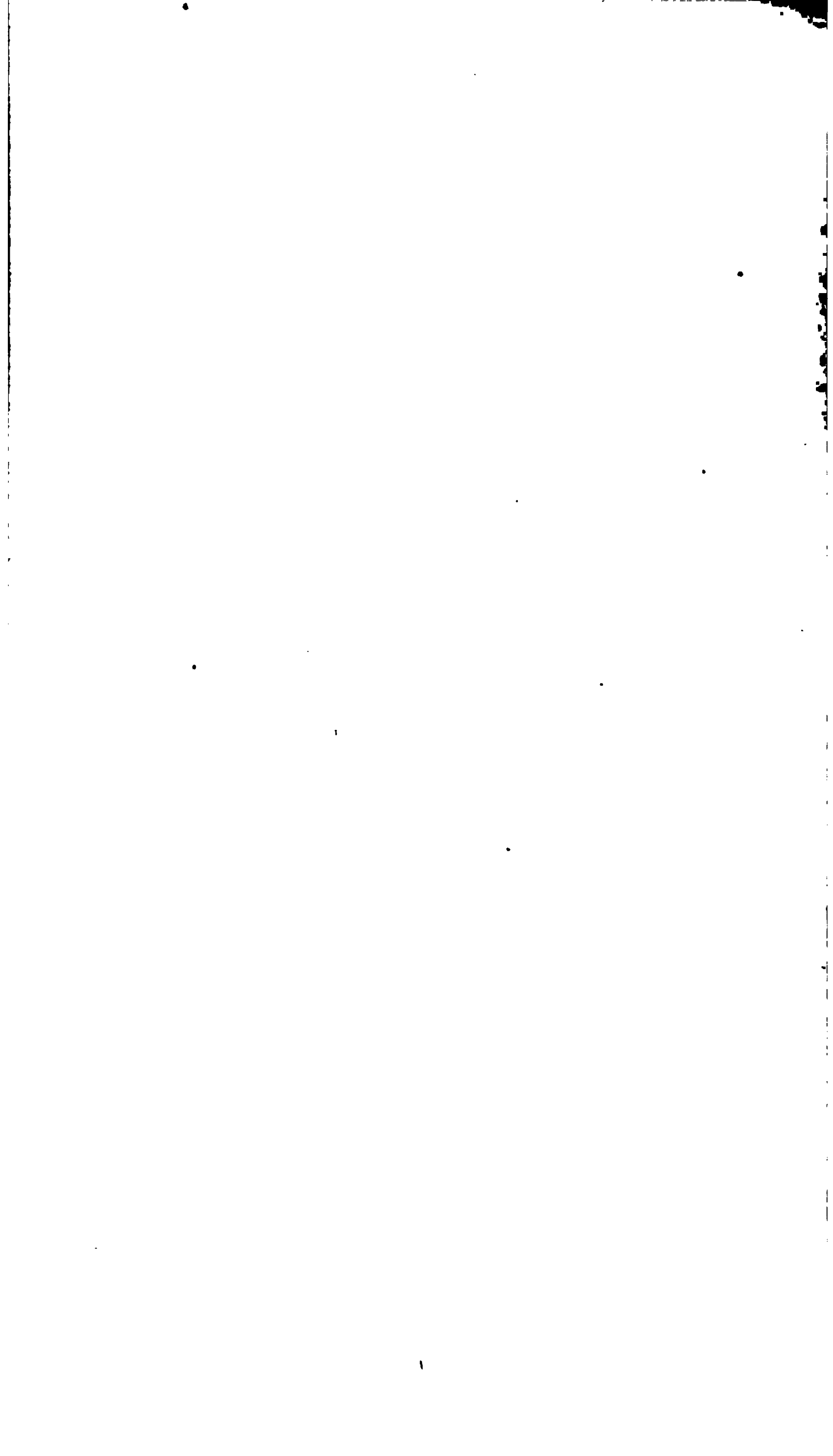
Transcript
upon ap-
peals.

IV. § 84. When any person shall have appealed to a superior court in manner above directed, a transcript of the record of the suit on which the appeal shall be made,

1777.12. 40. 22
Har. J. Rawle 492 -

~~Har. J. Rawle~~ appeals to Supreme
C. from interlocutory judgment of Supr.
C. or C. of Equity - 1831. C 34

Conf. Rep. 107 - 2 Law Rep 472



shall be delivered to the clerk of the superior court at least fifteen days before the sitting of the term, and shall by him be filed the same day on which he received the same: and if the trial of the county court was of an issue in the county, a trial de novo shall be had; and if on a hearing of a petition for a filial portion or legacy, or distributive share of an intestate's estate, or other matter relating thereto, a rehearing at the superior court, without notice given by either party: and if such transcript of the record is not filed within the time aforesaid, or if the appellant shall fail to appear, or to prosecute his appeal, then the judgment, sentence, or decree of the county court, shall be affirmed, and the appellant shall pay double costs in the superior court.

V. § 85. And for prosecuting writs of error, the following method of practice shall be observed,—that is Transcript upon error to say, a transcript of the records and proceedings in the county court, in the suit in which any writ of error shall be granted or allowed, shall be transmitted and delivered to the clerk of the superior court, at least fifteen days before the sitting of the term; and in case the plaintiff in error shall neglect to file such writ, and assign error as aforesaid, or shall fail to appear, or to prosecute the same, then the judgment of the county court shall be affirmed, and he shall be adjudged to pay double costs in the superior court.

VI. § 86. If it shall so happen, that there shall not If not 30 days between county court and superior court, what to be done. be thirty days between the last day of the term or hearing in the county court, and the next term of the superior court to which such appeal shall be made, or writ of error allowed, then such appeal or writ of error shall be continued, and a transcript of the records and proceedings shall be transmitted and filed in like-manner in the office of the superior court, the term succeeding that which shall immediately follow such county court term in which such trial and hearing shall be had as aforesaid.

VII. § 87. In every county court of pleas and quarter sessions within this state, when any appeal shall be granted or writ of error allowed, the clerk of such court Copy of the record to be made out in ten days. shall immediately make up a full and perfect record of all the proceedings in such cause, and shall within ten days after the final adjournment of the term in which the cause shall be heard, give an attested copy of such record, with a taxation of all costs accrued, to the appellant or plaintiff in error, if required, and shall endorse on such copy the day or days on which the same may have been

demanded, and the day on which it shall be delivered, and sign his name as clerk thereto; and if, by reason of delay of any clerk, any transcript shall not be filed in time, or that the record is so erroneously or inartificially made up, that the superior court cannot proceed thereon, any clerk, in any of the said cases, shall, upon trial, be adjudged guilty of misbehaviour in office, and shall forfeit and pay to the person entitled to such attested copy the sum of fifty pounds, to be recovered by action of debt in any court having cognizance thereof; and shall be further liable to an action on the case for all damages which any person may sustain for the want of such copy.

VIII. § 88. If the judge or judges of the superior court should be of opinion that there appears to be sufficient matter of substance in the transcript of the record and proceedings of any appeal or writ of error, to enable them to proceed thereon, the same shall not be dismissed for want of form.

IX. § 89. The clerks of the superior courts respectively, upon receiving a transcript of the record and proceedings in any suit on which an appeal shall be made, or writ of error allowed, shall give a receipt to the person delivering the same, and shall immediately endorse thereon the day on which it shall be delivered; and if he receive it fifteen days before the sitting of the term of the then next superior court, he shall enter it on the docket of causes for trial, and deliver to the party such summons for their witnesses as they may require; but if such transcript shall be delivered to the clerk of the superior court within fifteen days before the sitting of such term as aforesaid, then such clerk shall enter the cause on the reference docket of such court; and if the clerk of any superior court shall refuse, neglect or omit to do any of the duties which he is hereby required to perform, such clerk shall, upon trial and conviction, be deemed guilty of misbehaviour in office, and shall forfeit and pay to the appellant or plaintiff in error, one hundred pounds, to be recovered by action of debt, in any court having cognizance thereof, and be further liable to an action on the case for all damages which such appellant, or plaintiff in error, may sustain, by reason of such refusal, neglect, or omission.

1785. C. 2.

X. § 1. Before the granting of any appeal whatever, the attorney praying the same, shall certify to the court, in writing, reasons for his motion, with his opinion that the same are good and sufficient in law, why such appeal should be granted.

1807. C10 appeal if / or delay 1807 C 7E
Wt on appeals 1807. C2 -
appeal to Supreme Court
1810. C2.

right to be granted; which certificate, as aforesaid, signed with the name of the said attorney, shall make part of the record, and be transmitted with the other transcript of the cause to the superior court as aforesaid.

XII. § 2. When an appeal prayed shall not be pronounced, or the court before whom the said appeal may be determined, shall affirm the judgment, then shall the appellant be decreed to pay the appellee twelve and an half ^{12½ per} per centum interest, from the passing of the judgment in the county court, by which such appeal may have been granted, and the bonds taken for the prosecution of appeals with effect, shall hereafter make part of the records sent up to the superior court, on which judgment may be ^{Appeal} ^{bonds.} instantly entered up against the appellant and his securities.

1801. C. 10.

XII. § 4. Whenever any plaintiff shall appeal from the judgment of any court of pleas and quarter sessions in this state to the superior court of law for the district in which such county may be, and shall not recover more in such superior court than he, she, or they did in the county court, he, she, or they so appealing, shall not recover their costs which may accrue on such appeal, but may, at the discretion of the superior court before which such appeal shall be tried, be adjudged and made liable to pay the costs thereof. And where a defendant or defendants in any action of debt, covenant, or assumpsit, shall appeal from the judgment of any court of pleas and quarter sessions to the superior court of law, and shall not on the trial of such appeal diminish the sum recovered by the plaintiff in the county court, the party so appealing shall be compelled to pay to the plaintiff the sum of ^{Costs how} ^{to be paid.} ten per centum, to be computed from the time of rendering judgment in the county court to the time of entering up judgment in the superior court, and the lawful rate per centum, from that time until the whole debt shall be fully paid and satisfied. ^{Interest,} ^{&c.}

1801. C. 26.

XIII. § 1. No writ of error shall be allowed, brought, or prosecuted, upon any judgment rendered in any of the county courts of this state, but within five years next after the entering of such judgment, and not after. ^{Limitation}

XIV. § 2. If any person or persons, who is, are, or shall be entitled to prosecute a writ of error, be or shall be, at the time of his or her right to bring such writ of error, non compos mentis, imprisoned, beyond seas, that

Persons then such person or persons shall be at liberty to be
non com- a writ of error, so as they bring the same within
pos mentis years after their being of sound memory, at large,
&c. turned from beyond seas, or of age, as other persons
 having no such impediment might have done.

1807. C. 2.

Manner
of conduc-
ting ap-
peals in
future.

XV. § 1. When any defendant or defendants, in an action of debt, covenant, or assumpsit, shall appeal from the judgment of any court of pleas and quarter sessions to a superior court, and shall not, upon the trial of such appeal, diminish the sum recovered by the plaintiff or plaintiffs in the court of pleas and quarter sessions, it shall and may be lawful for the said superior court, if it appear that the appeal was taken for the purpose of (delay) to give judgment in behalf of the plaintiff or plaintiffs not only for the amount of the verdict rendered in such court, but also for a sum in addition thereto, not exceeding four per centum per annum, on the principal sum recovered, from the time of the judgment in the inferior court, to the time of entering up the same in the superior court; which additional sum shall be considered as a penalty, and shall not draw interest in cases where interest is allowed on judgments.

Costs not
recovered
in certain
cases.

XVI. § 2. When any plaintiff or plaintiffs shall appeal from the judgment of any court of pleas and quarter sessions to a superior court, and shall not recover in such superior court a greater sum than that recovered in the court of pleas and quarter sessions, independently of the interest accrued since the former judgment, he, she, or they shall not recover the cost of appeal, but shall be liable, at the discretion of the superior court, to pay the same.

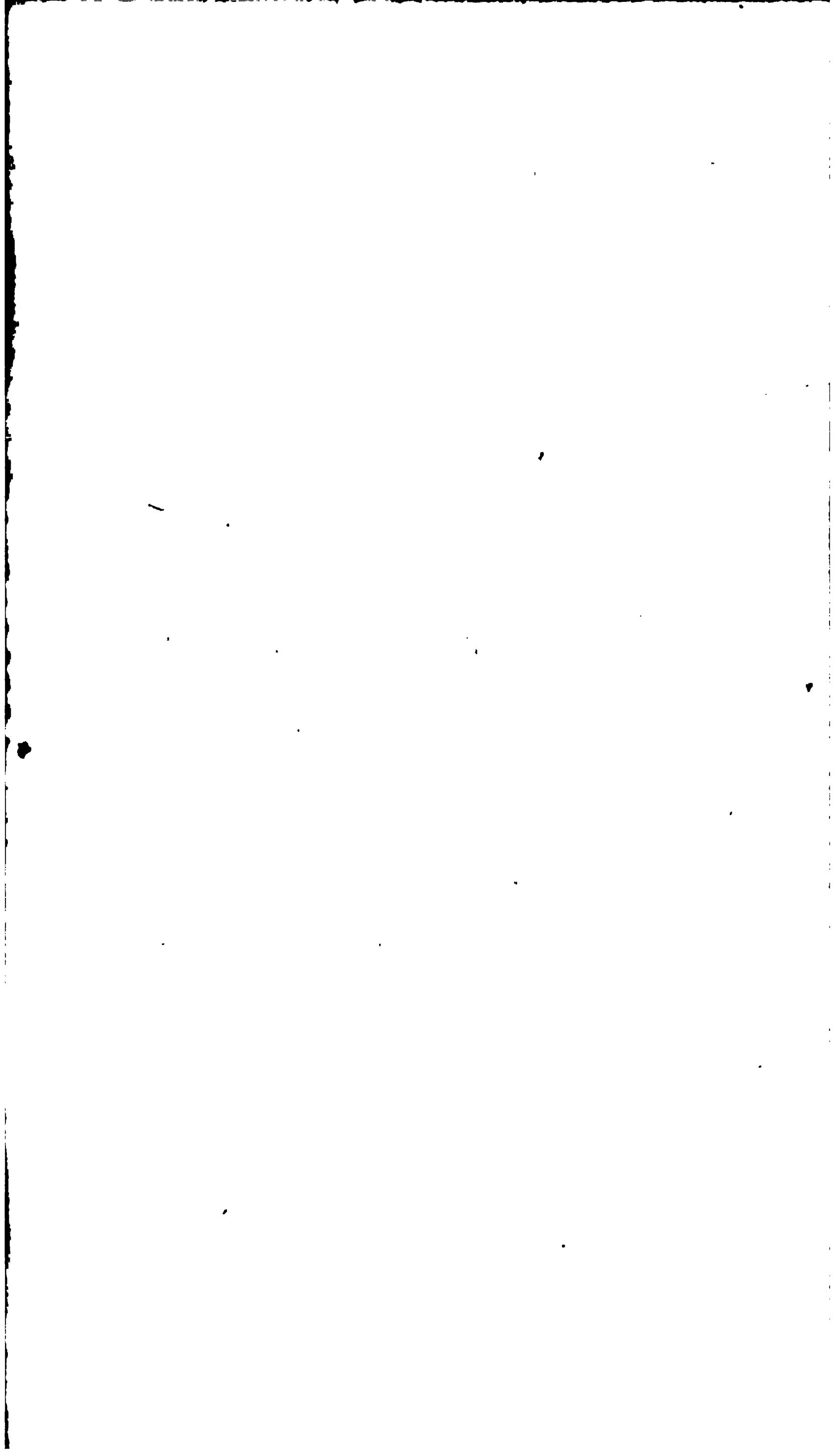
1807. C. 11.

XVII. In the trial of caveats of land, and suspensions of grants of lands, where either party is dissatisfied with the verdict of the jury, he may appeal to the superior court of his county, under the same rules, regulations and restrictions, as are now by law established for prosecuting appeals to the superior courts.

1814. C. 13.

Judge of
supreme c.
not to sit
on appeals
from his
decision.

XVIII. § 1. From and after the passing of this act, no judge on his circuit, before whom, in any of the superior courts of this state, any cause in law or equity, or any matter of law shall be tried, and which may be transmitted to the supreme court by appeal, for the opinion of the



Bind children of color
~~1801~~ 1801. C.

Apprentice bond to be made
payable to the Governor: the
acceptor. 1830 C 43

The C. C. may bind out the children of poor
negroes who do not habitually employ his or her
time in some industrious occupation

1826. C. 24. 57

520- Suit on bond 1 May 144

shall sit on the trial of said cause or matter of law in the supreme court; but is hereby forbidden from giving his opinion on any matter of law which may have arisen on the trial of said cause in any of the courts before which said judge may have held.

Statement 2. Administrator and Executor 6. Grants 3. Guardian and Ward 19, 20. Justices 15, 24, 27. Mills 8, 18. Recognizances and Fines 3. Taxes 33. Roads and Ferries 6.

APPRENTICES.

1762. C. 5.

I. § 19. Where the estate of an orphan shall be of so small value that no person will educate and maintain him or her for the profits thereof, such orphan shall, by direction of the court, be bound apprentice, every male to some tradesman, merchant, mariner, or other person approved by the court, until he shall attain to the age of twenty-one years, and every female to some suitable employment, till her age of eighteen years; and also such court may, in like manner, bind apprentice all free base-born children; and every such female child, being a mulatto or mustee, until she shall attain the age of twenty-one years: And the master or mistress of every such apprentice shall find and provide for him or her diet, clothes, lodging, and accommodations, fit and necessary; and shall teach, or cause him or her to be taught to read and write; and at the expiration of his or her apprenticeship, shall pay every such apprentice the like allowance as is by law appointed for servants by indenture or custom, and on refusal shall be compelled thereto in like manner; and if upon complaint made to the inferior court of pleas and quarter sessions, it shall appear that any such apprentice is ill used, or not taught the trade, profession, or employment to which he or she was bound, it shall be lawful for such court to remove and bind him or her to such other person or persons as they shall think fit.

Who to be bound apprentice

II. § 20. The binding of such apprentice by order of court as aforesaid, shall be by indenture made in the name of the presiding acting justice of the court, and his successors, of the one part, and of the master or mistress to whom he or she shall be bound, of the other; which indenture shall be acknowledged or proved before such court, and recorded, and a counter part thereof shall remain and be kept in the clerk's office, for the benefit of such apprentice; and that any person or persons injured

Binding how to be.

may and shall, at his or her costs and charges, prosecute a suit thereon in the name of such justice or his successor and recover all damages which he or she may have sustained by reason of the breach of the covenants therein contained; and if any verdict or judgment shall pass for such master or mistress, he or she shall recover costs.

1796. C. 28.

III. Where any person shall desert his family, leaving them without a sufficient support, and be absent from them for the term of one year, or where application may be made to the wardens of the poor for relief, and the said wardens shall certify the same to the court, the justices of the several courts of pleas and quarter sessions within this state shall have power and authority, and are hereby required, upon complaint being made to them of any family being so deserted, to bind out to proper and fit persons the child or children which may be left or deserted.

1812. C. 13.

IV. If any apprentice who shall be well used by his master, and who shall have received from his said master not less than six months' schooling, shall absent himself after arriving to the age of eighteen years, from his master's service, before the term of his apprenticeship shall have expired, every such apprentice shall, at any time thereafter, whenever he shall be found, be compelled to make satisfaction to the master for the loss he shall have sustained by his absence from his service before the time of his contract shall be fulfilled; and in case any apprentice shall refuse to make such satisfaction to his master, such master may recover by warrant issued and returnable before any justice of the peace, such satisfaction, not exceeding thirty pounds, as such justice may determine, shall be made to such master by such apprentice: or such master may maintain his action on the case against such apprentice and recover his damages as a jury may award, in any court having cognizance thereof: Provided, that the judgments of any justice upon a trial under this act shall be subject to the same right of appeal or stay of execution as in other cases of judgments by justices of the peace: Provided also, that no apprentice shall be compelled to make any satisfaction to any master after the expiration of seven years, next after the end of the term for which such apprentice shall have contracted or shall have been bound to serve; any thing herein contained to the contrary notwithstanding.

Children
deserted,
to be
bound ap-
prentice.

Appren-
tices liable
to dama-
ges for
running
away.

Exception.

~~Arms~~

Concerning the distribution
of the ~~first~~ public Arms
1877.C 21

ARMS.

1812. C. 12.

I. §1. The arms already received under said law of Congress (*for arming the militia of the United States*) as a quota of this state, shall be distributed in the following manner, that is to say: To each of the counties of Camden, Pasquotank, Perquimons, Chowan, Gates, Hertford, Bertie, Northampton, Martin, Halifax, Washington, Edgecomb, Pitt, Beaufort, Hyde, Craven, Carteret, Sampson, Cumberland, Brunswick, Columbus, Bladen, Jones, Duplin, Lenoir, Haywood, Buncombe, sixty-four stands of arms; to the county of New-Hanover, one hundred and twenty eight; to the counties of Onslow and Currituck, ninety six each; to the county of Wake, eighty-two stands of arms; Provided always, that nothing contained in this act shall be construed to extend to the arms already distributed to and among the independent and militia companies of the town of Fayetteville. Arms distributed.

II. §2. The governor of this state, shall forthwith cause the quota of arms by this act assigned for each of the before mentioned counties, to be delivered to the colonel commandant thereof, to be by him placed in the hands of such company of militia of the said county as he may think fit; and the said colonels commandant shall take the necessary measures and give the necessary orders for keeping the said arms safe and in good order; & where there now are, or hereafter may be, more than one colonel commandant in any one county, and they cannot agree in which company's hands the said quota of arms shall be placed, they shall apply to their immediate brigadier general, who shall direct to which company the said arms shall be given. Executive to cause the arms to be delivered.

III. §3. When and as often as this state shall receive any other quota of arms under the said law or any other law of the United States, the governor of this state for the time being shall cause the same to be divided among the following counties, to wit: Tyrrell, Greene, Nash, Wayne, Johnson, Rutherford, Franklin, Warren, Granville, Robeson, Richmond, Moore, Montgomery, Anson, Mecklenburg, Lincoln, Burke, Ashe, Wilkes, Iredell, Rowan, Cabarrus, Randolph, Chatham, Orange, Person, Caswell, Guilford, Rockingham, Stokes, and Surry; to each sixty-four stands of arms; giving priority in the said distributions in the order in which the said counties are herein enumerated, and giving to each county its whole allotment of sixty-four stands of arms. Distribution of the arms hereafter to be received.

one time ; and the said arms shall be disposed of by the commanding officers of the respective counties also enumerated, in the manner herein before directed, and under the same responsibility.

Concern
ing the
same.

IV. § 4. When by the distribution aforesaid six four stands of arms shall have been allotted to each county, so as completely to equip one company therein, then the governor for the time being shall proceed in like manner, and under the same rules and regulations, to equip another company in each county, giving priority in the said distributions to the different counties in the order which they are herein enumerated. And shall in like manner, and under the same rules and regulations, proceed in equipping one company after another in each county, until the whole militia of this state are armed. Provided always, that when the number of stands of arms delivered to any county shall be equal to the number of the militia therein, the said county shall be entitled to a further distribution of arms.

Penalty
for abu-
sing the
arms.

V. § 5. Every non-commissioned officer and private belonging to any company so equipped, shall keep and preserve his arms and accoutrements in good order, and in a soldierlike manner ; and for every refusal or neglect to do so, shall be fined by the court martial of his company a sum not less than two dollars nor more than ten dollars which fines, and all other fines imposed by said court martial, shall be laid out and expended, under the direction of the captain, in procuring and preserving cartridges and for other military purposes : And if any of the companies so equipped shall generally keep their arms in a negligent and unsoldierlike manner, the court martial of the regiment to which such company belongs shall and may deprive said company of the public arms and accoutrements, and bestow them on some other company belonging to the said regiment, which last mentioned company shall receive and keep the said public arms and accoutrements on the terms and under the regulations prescribed by this act.

Fine and
imprison-
ment for
selling
arms.

VI. § 6. If any person or persons to whom the public arms and accoutrements, or any of them, shall be confided, shall sell or in any manner embezzle the same or any part thereof, and be thereof convicted in any court of record, he or they shall forfeit and pay, by sentence of the said court, for the use of the state, a sum not less than twenty dollars nor more than fifty dollars, for every stand of arms and accoutrements so sold or embezzled.

and shall moreover be imprisoned for a period not less than one month nor more than twelve months: And any person or persons purchasing any of the said public arms and accoutrements, knowing them so to be, shall be punished in the same manner, and shall on conviction be liable to like penalties and imprisonment as the seller or embezzler thereof.

VII. § 7. When any non-commissioned officer or private, belonging to any of the said companies, shall die, remove from the county, or be excused from performing military duty, it shall be the duty of the captain of the company to which he belonged immediately to take the arms and accoutrements of the person so dying, removing, or excused, into his possession, and deliver to whoever shall succeed thereto, in the said company; and the said captain shall keep the said arms and accoutrements safely and in good order while they remain in his possession. In case of death.

VIII. § 8. The governor shall have power to order the colonel commandants of those counties where any of the arms may be distributed, to place the same in the hands of any detachment or detachments of militia of this state ordered into the service of the United States during the present war with Great Britain, if the same be deemed by him necessary. Detachments to be furnished.

1818. C. 2.

IX. The public treasurer shall be, and he is hereby authorized to borrow for the use of the state, from one or more of the banks established in the state, the sum of twenty-five thousand dollars, which shall be expended under the direction of his excellency the governor in the purchase of arms and munitions of war; and in providing other means of public defence other than fortifications. Purchase of arms &c.

ARMY ACCOUNTS.

1792. C. 4.

I. § 4. The comptroller shall, on the receipt thereof, (that is to say, lists of the names of the officers, non-commissioned officers, and privates, and others, who had their accounts settled at Halifax in 1783, with the sums drawn in due bills and certificates, and by whom drawn and receipted for; also a list of the names of the officers, non-commissioned officers, and privates; and others, who had their accounts settled by Hawkes and Coore of Newbern, or at any other time, by any board or boards, or by resolution of the General Assembly; distinguishing the sums

Lists to
be made
out.

drawn, and by whom drawn or receipted for, except only drawn at Warrenton in 1786), immediately proceed to arrange the names therein contained for pay due to in alphabetical order, and annex to the said names respectively, the sums drawn, distinguishing the due certificates, and final settlements in different columns together with the name of the person who receipted for drew the same, and include in the said lists so by him be arranged, the settlement made at Warrenton, in year 1786, and the settlement made at Hillsborough the present year, distinguishing each of the said settlements by a column containing *Ha.* for Halifax, *H.* Hillsborough, *N.* for Newbern, *W.* for Warrenton for Resolution of the General Assembly, and so on which list by him to be made out, he shall also include the final settlements delivered by the treasurer, by late comptroller, and by himself.

Copies to
be deposited
in the
clerk's office.

II. § 5. When the comptroller shall have made the said list, he shall have one hundred and twenty copies printed at the expense of the state, and transmit two copies thereof to the clerk of each county court respectively within the state, one of which copies shall be kept by clerk as a record in his office, and the other shall be subject to the inspection of any person willing to examine same.

Copies of
lists evidence.

III. § 6. The copy of the said list, so to be kept record, shall be taken and deemed as evidence in all cases which may arise in the premises between individuals; the defendant may, in all cases when suits shall be instituted against him for such due bill, certificate, final settlement, said in the said list to be drawn by him have leave to produce evidence that the same was drawn by him, or if drawn or receipted for by him have leave to produce evidence that the same was drawn by proper power or transfer, or that the same had been finally settled with the real claimant.

1813. C. 3.

In case of
invasion.

IV. In the event of the militia being called into service of the state, at any time or times during the year one thousand eight hundred and fourteen, it shall be the duty of the public treasurer, under the direction of his excellency the governor, to borrow of one or more of the banks in this state, such sums of money as in the opinion of his excellency, the exigency may require for the purchase of supplies for the militia thus called into service. Provided, that the whole sum to be borrowed during

Attachment

See recap - 6.7.10.11

The unit of attachment no-1 is just given
the line upon the property - 2 Bay 2;

The first division left has been out
2 Bay 8 -

See 15 Map: 246-266 -

year for this purpose, shall not exceed fifty thousand
 and shall be borrowed at a rate of interest not
 exceeding six per centum per year, and shall be reim-
 bursed at such times and in such proportions as shall be
 determined between the public treasurer and the said bank
 by law.

ARMIES.

BILL OF RIGHTS.

17. The people have a right to bear arms for the
 defence of the state; and as standing armies in time of
 peace are dangerous to liberty, they ought not to be kept
 up; and that the military should be kept under strict sub-
 ordination to, and governed by, the civil power.

See Legislature 8.

ARREST.

See Bail 5. Members of Assembly 33. Presentment 2. Warrants 1.

ARREST OF JUDGMENT.

See Practice 8, 18. Superior Courts 1.

ASSEMBLY.

See General Assembly. Legislature:

ASSETS.

See Administrator and Executor 14, 18. Lands 11, 14. Widow 6, 10.

ASSIGNMENT.

See Bail 3. Guardian 9. Limitation 8. Notes, Bonds, and Orders 1, 2,
 3, 4, 5. Pilots 6. Practice 22. Prisoners 3. Secretary 5. Slaves
 25. Soldiers 6. Superior Courts 14.

ATTACHMENT.

1777. C. 2.

I. § 25. Upon any complaint being made, on oath, How, by
 by any of the judges of the superior courts, or to any justice whom, and
 of any of the county courts, by any person or persons, his, in what
 her, or their attorney, agent, or factor, that any person cases, to
 hath removed or is removing him or herself out of the be obtain-
 county ed. privately, or so absconds or conceals him or her-
 self, that the ordinary process of law cannot be served on
 such debtor; and if such plaintiff, his, her, or their attor-
 ney, agent, or factor, further swears to the amount of his,
 her, or their debt or demand, to the best of his,
 her, or their knowledge and belief, it shall be lawful

for such justice, and he is hereby empowered required to grant an attachment against the estate of such debtor, wheresoever the same may be found in the hands of any person or persons indebted to, or having any of the effects of the defendant, or so much thereof as shall be of value sufficient to satisfy the debt or demand and costs of such complaint; which attachment shall be returned to the court where the suit is cognizable, and shall be deemed the leading process in such action, and the same proceedings shall be had thereon on judicial attachments. X

Attachment bond to be taken.

II. § 26. Provided always, that every such justice before granting such attachment, shall take bond with the security of the party for whom the same shall be issued, his, her, or their attorney, agent, or factor, payable to the plaintiff or defendant, in double the sum for which the complaint shall be made, for satisfying all costs which shall be awarded to such defendant in case the plaintiff shall be defeated in the suit, and all damages which shall be recovered against the plaintiff in any suit or suits which may be brought against him for wrongfully suing out such attachment; which bond, together with the affidavit of the party complaining, subscribed with his proper name, shall be returned by the justice taking the same to the court to which the attachment shall be returnable; and every attachment issued without bond and affidavit taken and returned as aforesaid, shall be abated on the plea of the defendant.

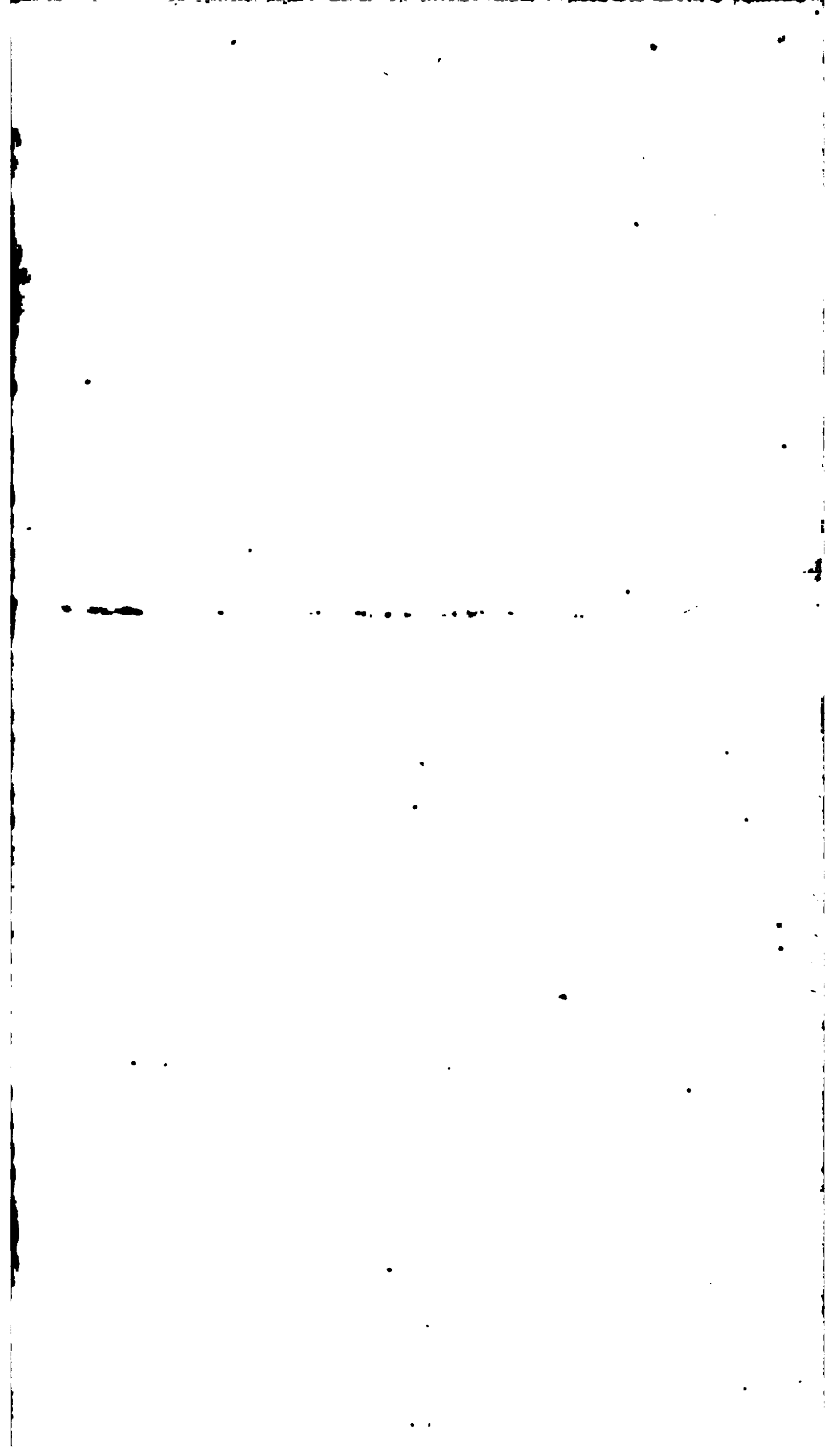
Attachment against foreigners.

III. § 27. When any person who shall be an inhabitant of any other government, so that he cannot personally be served with process, shall be indebted to any person a resident of this state, and hath any estate within this state, any of the said justices may grant an attachment against the estate of such foreign person, under the restrictions and regulations before mentioned, and the same proceedings may be had thereon.

Replevin.

IV. § 28. When any goods, or other estate shall be taken by virtue of an attachment, whether judicial or original, it shall and may be lawful for the defendant or defendants, his, her or their attorney, agent or factor, to replevy the same, by giving bond, with sufficient security to the sheriff or other officer serving such attachment, which said bond the sheriff or other officer is hereby empowered and required to take, to appear at the court to which such attachment is returnable, and to abide by, perform, and satisfy the order and judgment of such court, and when the estate attached shall, by three justices

Replevin bond XII, V.



the county court, to be summoned by the sheriff for that purpose, be certified on oath to be perishable, and the person or persons to whom it belongs, his, her, or their attorney, agent, or factor, shall not within sixty days after the serving of such attachment, replevy the same, then the estate shall be sold at public vendue by the sheriff or other officer, he having first advertised such sale at the courthouse and other public places in his county, at least ten days before the sale; and the money arising by such sale shall be liable to the judgment obtained upon such attachment, and deposited in the hands of the clerk of the court to which the process shall be returnable, there to await the event of such judgment; and where the sheriff or other officer shall serve an attachment in the hands of any person or persons supposed to be indebted to, or supposed to have any of the effects of the party absconding or residing out of this state, he shall at the same time summon such person or persons as garnishee or garnishees, in writing, to appear at the court to which the attachment shall be returnable, within the first four days of the first term thereof, there to answer upon oath what he or she is indebted to the defendant, and what effects of the defendant he or she hath in his or her hands, and had at the time of serving such attachment, and what effects or debts of the defendant there are in the hands of any other and what persons, to his or her knowledge and belief; and where any attachment shall be served in the hands of any garnishee in manner aforesaid, it shall be lawful, upon his or her appearance and examination, to enter up judgment and award execution against any such garnishee, for all sums of money due to the defendant from him or her, and for all effects and estate of any kind, belonging to the defendant in his or her possession or custody for the use of the plaintiff, or so much thereof as shall be sufficient to satisfy the debt and costs, and all charges incident on levying the same: and all goods and effects whatsoever in the hands of the garnishee or garnishees, belonging to any defendant shall be liable to satisfy the plaintiff's judgment, and shall be delivered to the sheriff or other officer serving the attachment; and where any garnishee shall be returned by the sheriff or other officer, summoned in manner aforesaid, and shall fail to appear and discover on oath, as by this act directed, it shall be lawful for the court after solemnly calling the garnishee, and such court is hereby authorized and re-

Sale.

Garnishee
par. IX, X,
XIV, XV.Garnishee
failing to
appear.

ATTACHMENT.

Scire facias.

quired, to enter a conditional judgment against such garnishee, and upon such judgment so entered, a scire facias shall issue against such garnishee, returnable to the next term to show cause, if any he hath, why final judgment should not be entered against him; and upon such scire facias being duly executed and returned, if such garnishee shall fail to appear at the next term, and discover on oath in manner aforesaid, the court shall confirm such judgment and award execution for the plaintiff's whole judgment and costs; and if, upon the examination of any garnishee, it shall appear to the court that there is any of the defendant's estate in the hands of any person or persons who have not been summoned, such court shall upon motion of the plaintiff grant a judicial attachment, to be levied in the hands of such person or persons having any of the estate of the defendant in his, her, or their custody or possession, who shall appear and answer, and be liable like other garnishees.

Judicial attachment par. V. VIII. XIII.

Replevy Bond may be given at any time before final judgment.

V. § 30. Any person against whose estate any attachment hath issued as aforesaid, his or her attorney, agent or factor, at any time before final judgment entered, may writ of enquiry executed, upon giving special bail, may replevy the estate so attached and plead to issue, so that the plaintiff is not thereby delayed of his trial. Provided also, that no judicial process shall be issued against the estate of any person residing without the limits of this state, unless such process is grounded on an original attachment, or unless the leading process in the suit has been executed on the person of the defendant when within the state.

VI. § 31. The attachment shall be in the following form:—

The State of North-Carolina.

To the Sheriff of County, greeting.

Whereas A B [or A B, attorney, agent, or factor, as the case may be, of C D] hath complained, on oath, to , esquire, justice of the superior court of law, or of the county court of , that E F is justly indebted to him, [or to the said A B] to the amount of ; and oath having been also made that the said E F hath removed, or is about to remove himself out of your county, or so absconds or conceals himself that the ordinary process of law cannot be served on him [or is an inhabitant of another government if the case is so] and the said having given bond and security according to the directions of the act of the General Assembly in such case made and provided: We therefore command you, that you attach the estate of the said E F, if to be found in your county, or so much thereof, repleviable on security, as shall be of value sufficient to satisfy the said debt and costs, according to the com-

Form of the attachment.

plaint, and such estate so attached, in your hands to secure, or so to provide that the same may be liable to further proceedings thereupon, to be had at the court to be held for , at , on the day of next, so as to compel the said E F to appear and answer the above complaint of the said , when and where we shall make known to the said court how you shall have executed this writ. Witness , esquire, justice of the said court, the day of , in the year of American Independence.

Which attachment shall be signed and sealed by the justice granting the same. And the bond to be given on obtaining such attachment, shall be in the following form, to wit:

Know all men by these presents, that we , all of the county of , are held and firmly bound unto , in the sum of , to be paid to the said , his certain attorney, executors, administrators, or assigns, for which payment well and truly to be made, we bind ourselves, and each of us, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the day of , in the year of our Lord .

Form of attachment bond.

The condition of the above obligation is such, that whereas the above bound hath, the day of the date hereof, prayed an attachment at the suit of , against the estate of the above named , for the sum of , and hath obtained the same, returnable to the court to be held at , on the day of next. Now if the said shall prosecute the said suit with effect, or in case he fail therein, shall well and truly pay and satisfy to the said , all such costs and damages as shall be awarded and recovered against the said , his heirs, executors, or administrators, in any suit or suits which may hereafter be brought for wrongfully suing out said attachment, then the above obligation to be void, otherwise to remain in full force and effect.

§ 32. No attachment shall be abated for want of form, if the essential matters expressed in the foregoing precedent be set forth in such attachment.

Not abated.

VII. § 33. In all suits commenced or prosecuted by attachment against the estate of persons residing out of the government, the court to which the same shall be brought shall stay all proceedings in such suits, for so long a time as they may think necessary, not exceeding one year from the time of the return of such process; and where it can be conveniently done, notice shall issue from the court to the defendant, and if the defendant appear, put in bail and plead within the time limited for his appearance, in such case his estate shall be liberated, and the garnishee discharged; and it shall be lawful for the jury to give in damages legal interest upon the plain-

Proceedings stay-
ed for want of form.

tiff's recovery, during the time of such extraordinary continuances, even in cases where interest is not usually allowed in the courts.

VIII. § 79. The same rules, methods, and proceedings shall be had, kept, and observed, by the said courts of pleas and quarter sessions, and the officers thereof, in granting, issuing, executing, and returning process and awarding judgment on judicial attachments, and in like remedy, recovery, and relief, against the sheriffs and bail, as in like cases are provided by law in suits depending or to be commenced in the superior courts of law.

1793. C. 16.

IX. § 1. Whenever any garnishee shall on oath confess that he or she has in his or her hands any property of the defendant of a specific nature, or is indebted to such defendant by any security or assumption for the payment or delivery of tobacco or other specific article, then and in either of these cases, the court before whom such garnishment shall be made, shall immediately order a jury to be impannelled and sworn to enquire of the value of such specific property, and the verdict of such jury shall subject such garnishee to the payment of such valuation, or so much thereof as will be sufficient to satisfy the debt or damages and costs of the party at whose instance such garnishee shall have been summoned: Provided always that such garnishee, who may on oath confess that he or she hath in his or her hands any specific property of the defendant, as left or deposited in his or her possession by such defendant, may always exonerate him or herself by delivering such property to the sheriff who levied such attachment, or may levy the execution issued thereon and the party suing out such attachment shall not be at liberty to issue such execution against such garnishee until the court next following such garnishment.

X. § 2. When any garnishee shall be called into court and on his or her garnishment shall deny that he or she owes to or has in his or her hands any property of the defendant, and the party plaintiff in such attachment, shall on oath suggest to the court that such garnishee owes to or has property in his or her hands belonging to the defendant, or when any garnishee shall on his or her garnishment make such a statement of facts that the court before whom such garnishment shall be made cannot proceed to give judgment thereon, then in either of these cases, the court shall order an issue to be made up, which

x This publication is called in
the land of Scotland "homing" &
the "spring" letter homing"
Long story of Lear

ATTACHMENT.

shall be tried by a jury, and the court shall give judgment on their verdict as in other cases.

XI. § 3. When any person shall sue out an attachment and the same shall be levied on property which shall be claimed by any other person, such claimant shall be at liberty to interplead, first giving security for such costs and damages as may be awarded against him, and shall at the same time file a petition in writing, setting forth the particular property claimed, and by what right or title he claims the same, a copy of which petition shall be served on the party suing out such attachment at least ten days before the next court; and at the court to which the return of such petition shall be made, the court shall order a jury to be impannelled to enquire in whom the property is of such article or property as may be so levied upon, and the finding of such jury shall be conclusive as to the parties then in court, and the court shall adjudge accordingly.

XII. § 6. The person or persons entering themselves special bail on replevying property attached, shall only be held liable to answer the value of the property which he, she or they as aforesaid do respectively hold or have returned in the garnishment, and no more; but the security replevying shall not avail themselves of paying the value of the property so replevied, unless such security shall at the return term or session, move the court to empanel a jury to ascertain such value by enquiry, which enquiry the court shall have executed on motion made as aforesaid, notice being given to the plaintiff in attachment, his agent or attorney, at least five days before such motion shall be made.

XIII. § 8. When any original or judicial attachment shall be returned to any court within this state, as levied upon the goods and chattels, lands and tenements of any person or persons residing without the district in which such attachment has been issued, it shall be the duty of the clerk of such court to cause the same by public advertisement to be made known for three months next after the return made as aforesaid; and until the said three months shall have expired it shall not be lawful for such court to suffer any final judgment to be entered upon any such attachment.

1794. C. 24.

XIV. § 1. When any person summoned as a garnisher, shall upon his or her garnishment, state that he or

Specific articles due from garnishee may be delivered to the sheriff.

she is indebted to the defendant, by specialty or assumpsit, for the payment or delivery of any specific article that he hath entered the same agreeable to contract, and that it was refused by the defendant; or that he was the owner or had always been ready to deliver the same, or that he had such specific article at the time and place specified in such covenant or agreement ready to be delivered, and that he was still ready to deliver the same, and when such garnishment shall be admitted by the plaintiff or found by jury, then, and in any of the said cases, such garnishment shall and may be exonerated by the delivery of such specific article or articles to the sheriff who levied the attachment, who shall proceed as if the attachment had been originally levied on such article or articles.

Garnishee's debt not yet payable.

XV. § 2. When any garnishee shall declare on his garnishment that the money or specific article due by him or her will become payable or deliverable at a future date, and the same shall be admitted by the plaintiff or found by the jury, then and in such case, conditional judgment shall be entered against such garnishee and the plaintiff may proceed to ascertain his demand by judgment against the defendant, but shall not take final judgment against such garnishee without notice by scire facias, on which the plaintiff may proceed, as in other cases.

Scire facias shall issue before final judgment.

See Guardian 13. Justices 13. Members of Assembly 33. Process 7, 10, 11.

ATTORNEY.

1743. C. 4.

Penalty for neglect of duty.

I. § 5. If any practising attorney in any court record in this province, shall neglect to perform his duty in any action in which he shall be retained, or commit any fraudulent practice, such attorney shall be liable to an action on the case, at common law, in the general county court of this province, to the party injured; and on the verdict passing against him, judgment shall be given by the said court, for the plaintiff to recover double damages, with costs of suit.

1777. C. 2.

Applicants to be examined.

II. § 7. Every person who shall hereafter apply for admission to practise as an attorney, shall undergo an examination before two or more judges of the superior courts of this state, and if such person shall be found to possess a competent share of law knowledge, and be a person of upright character, such judges shall give him

certificate under their hands and seals to practice in any court of this state for which they may judge him qualified. aSee Tax-
es.

III. § 8. No person coming into this state from any other state, or from any foreign country, with an intention to practise the law, shall by the said judges be admitted to practise as an attorney, unless he shall have previously resided one year in this state, or unless such person shall produce to the said judges a testimonial from the chief magistrate of such state or country, or from some other competent authority, that he is of an unexceptionable moral character; and all such attorneys, before they shall be admitted to practise in any court, shall in open court, before the judges thereof, take the following oath, *[which see under Oaths,]* and upon such qualification had, and oath taken, such attorney, as well as those who have heretofore obtained licences, may act as attorneys during their good behaviour. To reside
one year in
the state
previous
to admission,
or to
produce
testimonial.

IV. § 68. The county courts are hereby authorised and required to appoint an attorney, properly qualified, to act for and in behalf of the state in each respective county within this state, who shall hold his office during good behavior, and shall and may prosecute all matters cognizable in the county court of pleas and quarter sessions wherein he shall be appointed, for and in behalf of the state. County
Solicitor.

1786. C. 14.

V. § 2. It shall not be lawful for either plaintiff or defendant to employ, in any matter or suit whatever, more than one attorney to speak to any one suit in court; and the courts in this state are hereby directed not to suffer more than one attorney as aforesaid in any matter whatever, to plead for either plaintiff or defendant to any suit under the penalty of a violation of this act. Not more
than one
Attorney
to speak to
a cause.

VI. § 5. If any attorney or attorneys shall presume to ask, take or receive, directly or indirectly, any other or greater fees than are by this act directed in all civil cases, it shall be deemed in such attorney or attorneys a misdemeanor in his office or profession of an attorney, and such mal-practice being made known to any of the courts within this state, such court is hereby required to direct the attorney general, or the solicitor on behalf of this state, to carry on a prosecution by indictment for such mal-practice aforesaid; and if any such attorney or attorneys shall be thereupon convicted by the verdict of a aSee Fees.

Penalty
for taking
too great
fees.

jury, of taking any other or greater fees than by this act are allowed, he or they shall, in the same court in which such conviction shall be had, be thenceforth dismissed from his practice as an attorney, for one year, in every court of law and equity within this state.

Shall file
Declaration.

VII. § 6. Every attorney, when employed in an suit in any of the courts of this state, shall file his declaration in the clerk's office, any time within the first three days of the term to which the writ is made returnable and on failure thereof, such suit shall be dismissed by the court at the cost of the plaintiff, which cost being paid by the said plaintiff to the clerk of the said court, he or they paying such costs in consequence of a declaration not being filed in due time as aforesaid, may warrant such attorney for all costs by him paid as aforesaid; and the receipt of the clerk shall and may be given in evidence in support of such claim: and the justice before whom such warrant shall be tried may give judgment and issue execution thereon, and such attorneys shall be further liable to the action of the plaintiff for such damages as he or they may have sustained in consequence of such declaration not having been filed as aforesaid.

1798. C. 10.

To file a
power of
attorney.

VIII. § 1. Every attorney in any of the courts of law and equity in this state, who shall claim to enter an appearance for any person or persons whatsoever in any of the said courts, shall produce and file in the clerk's office of the court in which he may so claim to enter an appearance, a power or authority to that effect, signed by the person or persons or some one of them, for whom he is about to enter an appearance, or by some person duly authorised in that behalf: Provided nevertheless, that where any attorney in any of the said courts shall claim to enter an appearance by virtue of a letter to him directed, whether such letter purport to a particular or general employment, it shall be necessary for said attorney to retain said letter in his own possession and shall on production of said letter setting forth such employment, be allowed to enter his appearance; and it shall be the duty of the clerk to note to that effect upon the docket.

IX. § 2. In all cases where an attorney shall fail to make appear his employment by his client or clients in any suit or suits in any of the said courts, he shall not be entitled or allowed to enter an appearance to any suit or suits in said courts, and the same proceeding shall be had.

Auctioneers

To return the prob. amt. of the
sales made by them
1877 £23 -

AUCTIONEERS.

thereon as in all cases where no appearance is entered to law doth belong.

See Appeals 10. Fees 17, 22. Insolvent Debtors 8. Oaths 6. Poor 21. Practice 8, 18, 21. Presentment 2. Process 2. Recognizances and Fines 3. Sheriff 4. Taxes 18. Weights and measures 8. County Courts 14. Due Bills 8.

ATTORNEY-GENERAL.

1810. C. 8.

§4. It shall be the duty of the attorney general to attend on the said court, (*that is, the Supreme Court,*) at their several sittings, for the purpose of managing the business on the part of the state, and that he shall receive the sum of twenty pounds for the additional duty required of him by the provisions of this act, to be paid by the Public Treasurer under the same rules, regulations and restrictions as heretofore prescribed by law.

Attorney general to attend supreme court.

See Confiscation 18. Entry-Taken 14. Escape 4. Fees 6. Frauds 16. Impeachment 2, 4, 5. Judges 1, 2. Members of Assembly 14. Prisoners, Prisons and Stocks 16. Salaries 1. Superior Court 11. Taxes 62. Due Bills 8.

AUCTIONEERS.

1806. C. 15.

I. § 1. The commissioners of the city of Raleigh, and the towns of Salisbury, Hillsborough, Halifax, Edenton, Washington, Newbern, Wilmington, and Fayetteville, shall have power, immediately after the next election after the passing of this act, and from time to time, to appoint one or more, not exceeding three persons, to act as auctioneers, who shall give bond with two securities in the sum of five thousand pounds, to be filed in the clerk's office of the county in which said city and each of said towns are respectively situated: and the auctioneers so appointed shall exclusively have the right of selling by auction property of every kind, which shall be exposed for sale at auction in said city and towns respectively, except as herein after excepted.

Auctioneers how to be appointed.

II. § 2. Said auctioneers shall be authorized to demand and receive from any person requiring their services, such commissions as they may mutually agree upon, and for want of such agreement not more than three and one half per centum; and they shall keep a correct account of all sales by them made, which shall at all times be subject to the inspection of said commissioners, or any person they may appoint; and also on the payment

Their commissions &c.

of one shilling for a search, to that of any other person interested therein, provided such interested person shall have no right to examine any part of such books except such as may relate to his or her own particular concern.

Auctioneers to pay one per cent. III. § 3. Said auctioneers shall yearly, on such day as may be appointed by said commissioners, respectively account for and pay to such commissioners one per cent on the total amount of all sales made by them.

Remedy where auctioneers fail to account. IV. § 4. If any of said auctioneers shall fail or refuse to account for and pay the proceeds of any sale by them made, it shall and may be lawful for the person entitled thereto to enter up judgment in the county or superior court of the county in which each of said city and towns are respectively situated, ten days previous notice being given to the auctioneer. But if said auctioneer shall deny the whole or any part of the claim of the plaintiff, a jury shall be impanelled instanter to try an issue made up thereon; and the said auctioneers and plaintiffs respectively shall be entitled to summon witnesses to appear at the term or session in which notice of an intention to enter judgment shall have been given. Provided nevertheless, that nothing herein contained shall extend or be construed to extend to any sale made by order of any court, or by any sheriff, coroner, or constable, by virtue of his office, or of the goods and chattel of any deceased person or minor, or the sale of any goods and chattels the property of the vender. Provided always, that this act shall not prevent any person from selling his own property at public auction.

1816. C. 24.

Part of former act repealed. V.. So much of the above act as limits the number of auctioneers to be appointed and commissioned in the city of Raleigh, and the several towns therein mentioned shall be, and the same is hereby repealed: and the said commissioners respectively shall have power to appoint such number of persons as they may deem necessary, possessing in the opinion of said commissioners the proper qualifications to act as auctioneers.

BAIL.

STATE CONSTITUTION, ARTICLE 29.

Who are bailable. I. § 1. All prisoners shall be bailable by sufficient securities, unless for capital offences, where proof is evident or the presumption great.

Bail

Liability for costs - 1802 c 15th

Person arrested may after the
return court, if they have been
surrendered, give bail

1802. C 40 -

When the Sheriff or other officer
arrests any person by virtue of
a capias from any City or County
taken a bond for the appearance of
such person the Sheriff shall only
be liable after 40 days taken of the
term to which such person is returned.
= the -
If the Sheriff or other officer neglect or
refuse to take such bond with 2
sufficient sureties he shall be li-
= able as special bail
1833. C 5th

1777. C. 2.

II. § 16. Where any writ shall issue from any of the superior courts, whereby any sheriff or other officer shall be commanded to take the body of any person or persons to answer to any action in any of the said courts, such sheriff shall take bond, with two sufficient securities, in double the sum for which such person or persons shall be held in arrest (executors and administrators excepted) and shall return such bond with the writ; and in case the sheriff shall fail or neglect to take such bail, or the bail returned be held insufficient, on exception taken and entered the same term to which such process shall be returnable, the sheriff having due notice thereof, he shall be deemed and stand as special bail, and the plaintiff may proceed to judgment according to the rules herein after prescribed.

Bail in civil cases on writs from the superior courts.

Sheriff, when to be deemed & stand special bail.

III. § 17. All bail bonds returnable to any of the said superior courts shall be assigned by the sheriff returning the same, by indorsement thereon, in the following form, viz.

Assignment of

I, A B, sheriff of county, do hereby assign the within obligation and condition to C D, the plaintiff therein named, his executors, and administrators, to be sued for according to the statute in such case made and provided. In witness whereof, I have hereunto set my hand and seal, the day of in the year of our Lord

And every sheriff failing to make such assignment, shall be deemed, held, and taken as special bail, in the same manner as if no bail bond had been returned.

IV. § 19. All bail taken according to the direction of this act, shall be deemed, held, and taken to be special bail and as such liable to the recovery of the plaintiff; but the plaintiff after final judgment, shall not take out execution against such bail, until an execution be first returned that the defendant is not to be found in his proper county, and until a scire facias hath been made known to the bail, which scire facias shall not issue till such execution shall have been so returned; and after return of such execution against the principal, and scire facias against the bail, execution may issue against the principals and securities, or any of them, or any of their estates, unless the bail shall surrender the principal before the return of the first scire facias, or shall appear and plead upon the return thereof.

All bail so taken are special bail.

V. § 20. The bail shall have liberty, before final judgment obtained against him, to surrender to the court

Surrender.

BAIL.

from which the process issued, or to the sheriff returning such process, during the sitting of such court, or to the sheriff in the recess of such court, the principal in discharge of himself, and such bail shall any time before such judgment had, have full power and authority to arrest the body of his principal and secure him until he shall have an opportunity to surrender him to the sheriff who made the arrest, or to the court to which the process was returnable, and such sheriff is hereby required to receive such surrender and hold the body of the defendant in custody, as if bail had never been given.

Bail to
plead and
try the
same term.

VI. § 21. When any scire facias shall by the proper officer be returned to have been made known to the bail and they in consequence thereof shall appear, they shall be obliged to plead, and the issue shall be tried the same term to which the process was returned, unless sufficient cause be shown to the court to the contrary. But the bail shall not be admitted to plead non est factum, unless they shall first file an affidavit of the truth of their plea.

If principal
imprisoned,
he shall be
detained
till he satisfy
the plaintiff's
judgment.

VII. § 22. If any sheriff shall return on a scire facias to him directed, that the principal is imprisoned by virtue of any process civil or criminal, the court to which the scire facias is returnable, shall on motion of the plaintiff or bail, order and direct that such principal be retained where he or she shall be a prisoner, until the plaintiff's judgment and costs shall be paid, or he or she otherwise discharged by due course of law, a copy of which order being served on the keeper of such prison, before such prisoner's releasement, shall be a sufficient authority for him to detain such prisoner until such order be complied with, and shall be deemed a surrender of the principal and a discharge of the bail.

Shall amount to a
surrender.

Bail on
process
from the
county
court.

VIII. § 76. When any writ or process shall issue to take the body or bodies of any person or persons, in answer to any plaintiff in any civil action, in any county court of pleas and quarter sessions, the sheriff shall return therewith a bail bond with two sufficient securities for double the sum for which the person or persons shall be held in arrest (executors and administrators excepted) to the clerk, on or before the first day of every term, and if the sheriff shall not return bail or the bail returned be held insufficient, upon exception taken thereto and entered on the docket the same term to which the writ shall be returnable, and notice given that term to the sheriff to justify, then and in such case the sheriff shall stand and be held as special bail, for the defendant and the plaintiff.

BAIL.

may proceed to judgment according to the rules herein after mentioned, and the plaintiff, on recovery may take out execution against the defendant or sheriff, or both. But if the defendant puts in bail before the time to plead, by the rules hereafter mentioned, is expired (*which see under Practice*) then the sheriff shall be discharged: Provided also, the sheriff may surrender the defendant in discharge of himself at any time before final judgment obtained against the said bail.

1797. C. 2.

IX. § 4. Every sheriff within this state, or his legal deputy, when he shall arrest the body of any person in consequence of the writ of capias issued to him by the clerk of any court of record, on and from an indictment previously found, it shall and may be lawful for the said sheriff or his deputy, if the crime charged is bailable, to recognize the said offender, and take bail in nature of a recognizance, for his appearance at the next succeeding court of the district or county where such offender ought to answer, and where such bill hath been found, to be guided and directed in this matter by the same rules and regulations as have heretofore governed justices of the peace.

Sherriff
may take
bail in cer-
tain cases.

1798. C. 19.

X. § 6. Where any writ shall issue from any court, whereby any sheriff or other officer shall be commanded to take the body of any person or persons to answer to any suit brought for recovery of any forfeiture arising under any penal statute of this state, such sheriff or officer shall take bond with two sufficient securities, in double the sum for which such person or persons shall be held in arrest, and shall return such bond with the writ; and in case any sheriff shall fail or neglect to take such bail, or the bail be insufficient, on exception taken and entered the same term to which such process shall be returnable, the sheriff or other officer having notice thereof, he shall be deemed and stand as special bail; and the said bail bond shall be endorsed by said officer in the mode prescribed by law for assignment of bail bonds: and the said bail shall be subject to the same rules, and bailable in the same manner as bail taken in civil cases.

To bail
in usual
suits.

See Attachment 12. Indictment 4. Justices 8, 10, 11, 20. Practice 23, 27, 30, 31. Process 11.

BANISHMENTS.

See Prosecutions.

I. § 1. Whereas Congress, on the 26th May last did, from conviction of the support which the finance of the United States would receive from the establishment of a national bank, approve a plan for such an institution and whereas a subscription thereto was filled and a president and directors chosen from the expectation of a charter of incorporation; and as the exigencies of the United States render it indispensably necessary that such an act of incorporation should be passed, and the Congress of the United States have been pleased, by an ordinance dated the 31st December 1781, to incorporate, as we those who then were, as those who thereafter might become subscribers to the said bank, by the name and style of the president, directors, and company of the bank of North-America; and it is the interest of the United States that the faith of the said bank should be preserved

II. § 2. The said ordinance of incorporation shall be held and deemed valid and effectual to all intents and purposes as if the same had been passed by an act of the General Assembly of this state.

Bank of Cape Fear established. Capital Stock. Subscriptions to be opened. III. § 1. A bank shall be established in the town of Wilmington, the capital stock of which shall not exceed two hundred and fifty thousand dollars, divided into shares of one hundred dollars each; but in the mean time, subscriptions towards constituting one hundred thousand dollars of said stock shall be opened; that is to say, at Wilmington on the first Monday in April next, for five hundred shares, under the superintendence of George Hooper, John London, John Hill, John Hogg, Richard Bradley, William Giles, and Henry Watters; and on the same day at Fayetteville, for five hundred shares, under the superintendence of John Winslow, David Anderson, William B. Grove, Duncan M'Leran, Robert Holliday, Peter Perry, and Simon Belden. And a majority of said commissioners, at the places above mentioned respectively shall be sufficient to perform the duties of their appointment; and it shall be competent for the corporation created by this act, to proceed to fill up, in whole or in part the remaining fifteen hundred shares, by subscriptions to be opened at the above places respectively, at such time and under such commissioners as they may appoint, giving three months notice thereof in the Wilmington, Newbern, and State Gazettes.

Bank notes of banks, not authentic
to draw and notes, not to circulate
in the State after 4 July 1832
under \$5.00
1832. C 4. a.

An Act establishing the Bank of
N. C.

1832. C 1 -
Bank of Cape Fear

Rechartered

1833. C 1.

Merchants Bank in New Bern

Albemarle Bank in Fayetteville

Established 1833. C 2.

Bank of the St. of N. C.

Established 1833. C 3.

To amend the act establishing the Bank of the
St.
1834. C 5 -

To amend the charter of the Bank of Cape Fear
1834. C 6 -

Merchants Bank in the town of N. Bern

Established - 1834. C 7 -

To provide for the payment of the installment due
to the St. to the Bank of the St. for share subscription
in the St. = 1835. C 14 -

IV. §2. The amount of the share or shares subscribed for, shall be paid by the several and respective subscribers in gold or silver, one fourth thereof at the time of subscribing, to the said commissioners, and one fourth within sixty days after the said bank shall go into operation, one fourth within one hundred and twenty days, and one fourth within six months, to the bank directors for the time being; Provided always, that it shall be lawful for any subscriber to pay the whole of his subscription money, or any greater part than is hereby required before the time limited for the same; and each and every subscriber so paying in advance shall have a discount at the rate of six per centum per annum on such advance, computing from the commencement of the operation of the said bank; and any person or persons failing to pay any instalment at the time herein appointed, shall forfeit to the corporation the sum or sums by him or them before paid, and shall thenceforth cease to be a member thereof; and it shall be competent for the corporation to supply any deficiency occasioned by any such delinquency by sale or otherwise, as they may deem proper.

Subscriptions to be paid in gold or silver.

When paid

Forfeiture on failure to pay.

V. §3. The subscribers to the said bank, their successors and assigns, shall be and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of "The President, Directors, and Company of the Bank of Cape Fear," and shall so continue until the first day of January, one thousand eight hundred and twenty, and by the name and style aforesaid, they shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to themselves and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, to an amount not exceeding in the whole (including the amount of the capital stock aforesaid) six hundred thousand dollars, and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew at their pleasure, and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary for the government of the said corporation, not being contrary to the constitution of this state or of the United States, or of the said corporation;—for which purpose general meetings of the stockholders shall and may be called by the directors, as

Subscribers incorporated.

Hereinafter specified, and generally to do and execute such acts, matters, and things, as to them shall and may appear necessary; subject nevertheless to the rules, regulations, and restrictions, hereinafter declared and prescribed.

Eleven directors, to be elected yearly.

The corporation is not to be dissolved, if directors be not elected.

Manner of conducting the subscription.

When \$25,000 be subscribed, bank to go into operation.

VI. § 4. For the well ordering of the affairs of said corporation, there shall be eleven directors, being citizens of this state, of whom at least seven shall be residents of Wilmington, or within fifteen miles thereof, to be elected yearly by the stockholders, at a general meeting to be held annually at Wilmington on the first Monday of January; Provided the first election of directors shall not be included in the before mentioned general regulation but shall be held at the time and in the manner hereinafter directed; and provided, that in case it should at any time happen that an election of directors should not be made on any day, when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved, but it shall be lawful, on any other day within ten days thereafter, to hold and make an election for directors, in such manner as shall be regulated by the laws and ordinances of the said corporation; and that in case of the death, resignation, or absence from the state of any director, his place shall be filled up by a new choice for the remainder of the year, by a majority of the directors.

VII. § 5. On the first day of May next, and every thirty days thereafter, if the subscription shall not be sooner closed, the commissioners appointed at Fayetteville shall transmit and deliver to the commissioners appointed at Wilmington, a list of the several subscribers at such place, and the share or shares to each and every subscriber belonging, together with the full amount of the subscription money by the said commissioners received as aforesaid; for which amount the receipt in writing of the said commissioners appointed in and for the town of Wilmington, or a majority of them, shall be a sufficient acquittance and discharge to the persons respectively paying the same; and as soon as the sum of twenty-five thousand dollars, in the manner aforesaid, shall be actually received on account of the subscription to the said capital stock of the said bank, notice thereof shall be given by the commissioners appointed in and for the town of Wilmington, in the Wilmington and State Gazettes, and the same persons shall at the same time notify a time and place within the said town, at the distance of twenty days from

the time of such notification, for proceeding to the choice of directors ; and it shall be lawful for such election to be then and there made, and the eleven persons who shall then and there be chosen, shall be the first directors and shall be capable of serving until the first Monday in January thereafter, or until their successors shall be duly elected ; and the said directors shall forthwith commence the operations of the said bank at the town of Wilmington.

VIII. § 6. It shall be lawful for the corporation to establish a branch of said bank, whensoever they shall think fit, at and in the town of Fayetteville, for the purpose of discount and deposit only, and upon the same terms and in the same manner as shall be practised at the bank in Wilmington, and to commit the management of the said office or branch, and the making of the said discounts, to such persons, under such agreements and subject to such regulations as they shall deem proper, not contrary to the constitution of this State, the United States, or of this corporation. Subscriptions may be made in person or by proxies appointed in writing.

A branch bank to be established at Fayetteville.

IX. § 7. The directors for the time being shall have power to appoint such officers, clerks, and servants under them as they shall deem proper, and regulate their respective duties and compensation, and shall be capable of exercising such other powers and authorities as shall be described, fixed and determined by the laws, regulations and ordinances of the corporation.

Directors to appoint the officers, clerks, &c.

X. § 8. The following rules, restrictions, limitations and provisions, shall form and be the fundamental articles of the constitution of the said corporation: The number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold, one vote for each share ; they shall have a right to vote by a proxy, he being a stockholder: No director shall receive any emolument: the stockholders may allow a salary or other compensation to the President: No less than five directors shall constitute a board for the transacting of business, of whom the President shall always be one, unless in case of sickness or necessary absence, he shall appoint by a written instrument a director to fill his place: A number of stockholders, not less than twenty-five, being altogether owners of fifty shares, shall have power to demand a general meeting, and the President shall call one within thirty days after the communication of their re-

Fundamental articles of the constitution of the bank.

quest; Every cashier shall give bond and security before he enters on the duties of his office, in the sum of ten thousand dollars, and the other officers, clerks, or servants of the corporation, shall give such security as the directors shall require: The stock of the said corporation shall be transferable and alienable, according to such rules and regulations as the corporation shall, from time to time, make for that purpose: Bills, bonds, and notes subscribed by the president and countersigned by the cashier, shall be binding and obligatory upon the corporation: Half-yearly dividends shall be made of such part of the profits of the bank as shall appear advisable: The total amount of notes emitted or thrown into circulation by the said corporation, together with their debts of every description, shall not at any time exceed the sum of seven hundred & fifty thousand dollars over and above the monies then actually deposited in the bank for safe keeping; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural private capacities, and an action of debt may in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant or agreement to the contrary notwithstanding: Provided, that any of the directors who may have been absent or have dissented from the resolution or act whereby such excess was contracted or created, may respectively exonerate themselves from being so liable, by forthwith entering their protest with and before a notary public, and to the stockholders at a general meeting, which they shall have power and are hereby required and directed to call for that purpose: None but a stockholder, being a citizen of this state, shall be eligible as a director: The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales on judgments which shall have been obtained for such debts: Nor shall this corporation, directly or indirectly deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly

pledged for money lent and not redeemed in due time, or in goods the produce of its lands; neither shall the said corporation take more than at a rate of a half per centum for thirty days, for or on account of its loans or discounts.

XI. § 9. It shall and may be lawful for the state of North-Carolina, at any time within three years from and after the passing of this act, to become interested in said bank, to an amount not exceeding two hundred and fifty shares of one hundred dollars each; and on the payment into the said bank by the state for any shares she may deem it adviseable so to take, it shall be lawful thenceforward for the said corporation to issue notes founded on such extension of capital, in the same ratio as is herein before provided on the original stock created by virtue of this act. State may become interested in said bank.

XII. § 10. The commissioners appointed by this act for receiving subscriptions in the town of Wilmington, shall immediately after a sufficient number of shares are taken, provide a house for carrying on the business of the bank, together with all necessary paper, stationary, vaults and utensils suitable to the same, so that as soon as the directors are chosen, the operations of the said bank may be immediately prosecuted and carried into effect. A house, &c. to be provided.

XIII. § 11. Repealed.

XIV. § 12. Nothing herein contained shall be construed to give to the bank by this act created any precedence or preference to any bank which the legislature may at any time hereafter establish at the towns of Wilmington and Fayetteville or elsewhere; and the said bank by this act established may become a branch (on such terms as may be agreed on) of any general bank which may be established for this state, in the city of Raleigh or elsewhere. This bank no. to have preference to any state bank.

1804. C. 22.

XV. § 1. All such persons as now are, or hereafter shall be stockholders of the Newbern Marine Insurance Company, shall be, and are hereby constituted, ordained, and declared to be a body politic and corporate, by the name of "The Newbern Marine Insurance Company," that by that name, they and their successors shall be perpetual succession, and shall be capable of suing, being sued, pleading and being impleaded, answering being answered unto, defending and being defended, in all courts and pleas whatsoever; and that they and their successors may have a common seal, and change & alter the same at their pleasure; and be capable of Newbern Insurance Company incorporated.

purchasing, holding, and conveying any estate, real and personal, for the use of the said company.

Shares to
be 50L
each.

XVI. § 2. A share in the stock of said company shall be fifty pounds, payable in advance, or by such instalments as the president and directors, hereinafter to be appointed, shall direct; and the number of shares shall not exceed five hundred, and subscription books may from time to time be opened, under the direction of the said president and directors.

Corpora-
tion to be
managed
by 11 di-
rectors.

XVII. § 3. The stock and property, affairs and concerns of the said corporation, shall be managed and conducted by eleven directors (one of whom shall be president and another secretary) who shall hold their offices for one year, and until others shall be chosen, and at the time of their election shall be stockholders and inhabitants of the town of Newbern, and shall be elected on the second Monday of January in every year, at such time of the day and at such place in said town as the directors for the time being shall appoint, and every stockholder shall at such election have a vote for every share he holds, reckoning no share except such as were acquired ninety days before the election: and the persons having the greatest number of votes (a majority of the votes of the stockholders being taken) shall be elected.

Directors
to meet &
choose the
officers &
servants of
company.

That the directors shall meet as soon as may be after every election, and shall choose the officers and servants of the company, the latter of whom shall be removable at their pleasure; and shall during the year fill up any vacancy that may happen in their own body, or in said officers or servants, but such appointments shall expire on the day of the next annual election; but until the second of January one thousand eight hundred and six, Samuel Chapinan, Josiah Collins, jun. John Devereux, John Harvey, Moses Griffin, James M'Kinlay, François Xavier Martin, William Sheppard, John Stanly, Isaac Taylor, and Alexander Torrans, shall be directors, and James M'Kinlay president and William Sheppard secretary.

The di-
rectors in
the year
1806, nam-
ed.

Corpora-
tion not
dissolved
by a failure
in election
of direct-
ors.

XVIII. § 4. If it should at any time happen that an election of directors should not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not therefore be dissolved, but it shall and may be lawful to hold and make an election of directors in such a manner and at such time as the laws and ordinances of the corporation may direct.

President
and six di-

The president and six directors shall constitute a board competent for the transaction of business, and have power

to make laws and ordinances for the management and disposition of the stock, property, estate, and effects of the corporation, the transfer of shares, and the duties and compensations of the secretary and servants employed. They shall also appoint a committee of four directors, any two of whom, with the president, shall have power, on behalf of the corporation, to make insurances, fix premiums, lend money on bottomry or respondentia bonds, mortgages on personal security of two responsible freeholders, direct the issuing of policies, notes, and all and every instrument of writing that may be necessary and proper in the transaction of the affairs of the company; and all such instruments, subscribed by the president and countersigned by the secretary, shall bind the property, real, or personal, of the corporation; and until the second Monday of February one thousand eight hundred and six, John Devereux, Isaac Taylor, John Harvey, and Alexander Torrans, shall be the committee of directors.

rectors to
constitute
a board.

A com-
mi tee to
make in-
surances.

XIX. § 5. A bank shall be established in the town of Newbern, the capital stock whereof shall not exceed two hundred thousand dollars, divided into shares of one hundred dollars each; but in the mean time subscriptions shall be opened in the said town for five hundred shares, on the first day of April next, under the superintendence of James M'Kinlay, John Devereux, François Xavier Martin, Isaac Taylor, John Harvey, a majority of which said commissioners shall be competent to perform the duties of their appointment; and they shall keep the subscription books open for the term of ten days; and if the number of shares shall not be subscribed within the said term of ten days, then they shall keep the said books open until the said five hundred shares are subscribed, and no longer; and the corporation by this act created may at any future time open books to receive subscriptions for the remaining fifteen hundred shares, at such time and at such place, and under the superintendence of such persons as they may deem advisable and expedient. Subscriptions may be made in person, or by proxy in writing.

Bank of
Newbern
established

Capital.

Subscrip-
tions to be
opened.

X. § 6. The amount of the share or shares subscribed for shall be paid by the several and respective subscribers, in gold or silver, one fourth thereof at the time of subscribing, to the commissioners, one fourth within sixty days after the bank shall go into operation, one fourth within one hundred and twenty days, and one fourth in six months, to the bank directors for the time

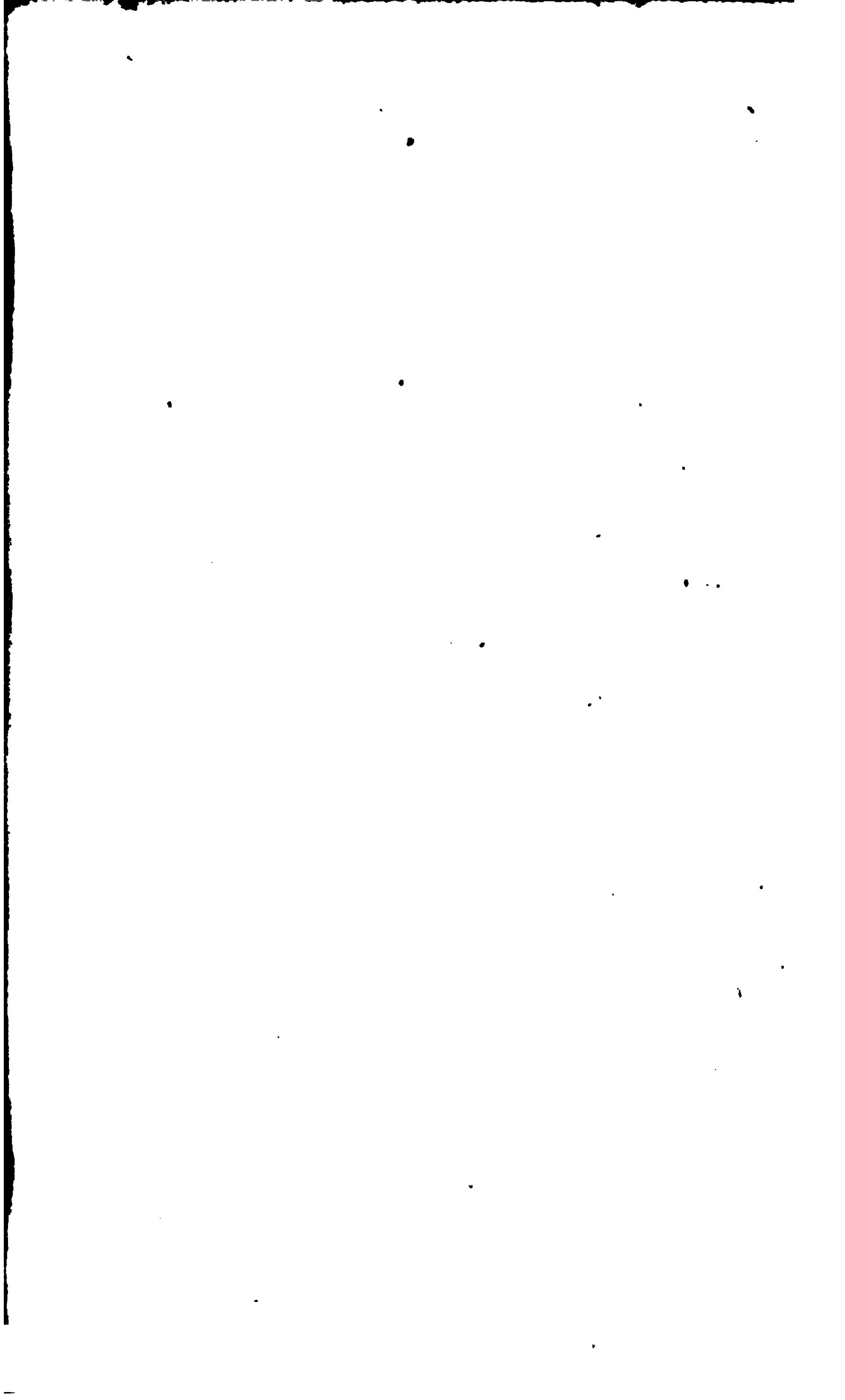
Shares to
be paid in
gold or
silver.

BANK.

being. Provided always, that it shall be lawful for any subscriber to pay the whole of his subscription money, or any greater part than is hereby required, before the time limited for the same; and each and every subscriber so paying in advance shall have a discount at the rate of six per centum per annum on such advance, computing from the commencement of the operation of the said bank.

XXI. § 7. The subscribers to the said bank, their successors, and assigns, shall be and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of "The President and Directors of the Bank of Newbern," and shall so continue until the first day of January one thousand eight hundred and twenty, and by the name and style aforesaid, they shall be, and are hereby made capable in law, to have, purchase, receive, possess, enjoy, and retain, to themselves and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, to an amount not exceeding in the whole five hundred thousand dollars, including the amount of the capital stock aforesaid, and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew at their pleasure, and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary for the government of the said corporation, not being contrary to the laws of this state or of the United States; and for the making whereof general meetings of the stockholders may be called by the directors, as hereinafter specified, and generally to do and execute all acts, matters, and things which a corporation or body politic may or can lawfully do and execute, subject to the rules, regulations, restrictions, limitations, and provisions, hereinafter prescribed and declared.

XXII. § 8. For the well ordering of the affairs of the said corporation, there shall be eleven directors, being citizens of this state, elected yearly by the stockholders at a general meeting to be held annually at Newbern, on the first Monday in January, seven of whom shall reside at Newbern or within twenty miles thereof: Provided the first election of directors shall not be included in the above mentioned general regulation, but shall be held



at the time and in the manner hereinafter directed; and provided, that in case it should at any time happen that an election of directors should not be made on any day, when pursuant to this act it ought to have been made, the said corporation shall not for that cause be dissolved, but it shall be lawful at any other day within ten days thereafter, to hold and make an election for directors, in such manner as shall be regulated by the laws and ordinances of the said corporation; and that in case of the death, resignation, or absence from the state of any director, his place shall be filled up by a new choice for the remainder of the year, by a majority of the directors.

XXIII. § 9. As soon as twelve thousand five hundred dollars shall be actually received on account of the subscription to the said capital stock of the said bank, notice shall be given thereof by the commissioners, or a majority of them, in the Gazettes printed in the said town of Newbern, and the same persons shall at the same time notify a time and place within the said town, within the distance of twenty days from the time of such notification, for proceeding to the choice of directors; and it shall be lawful for such choice to be then and there made, and the eleven persons who shall then and there be chosen, shall be the first directors, and shall be capable of serving until the first Monday in January thereafter, or until their successors shall be duly elected; and the said directors shall forthwith commence the operations of the said bank at the town of Newbern.

When
\$ 12,500
be subscribed,
bank to go into
operation

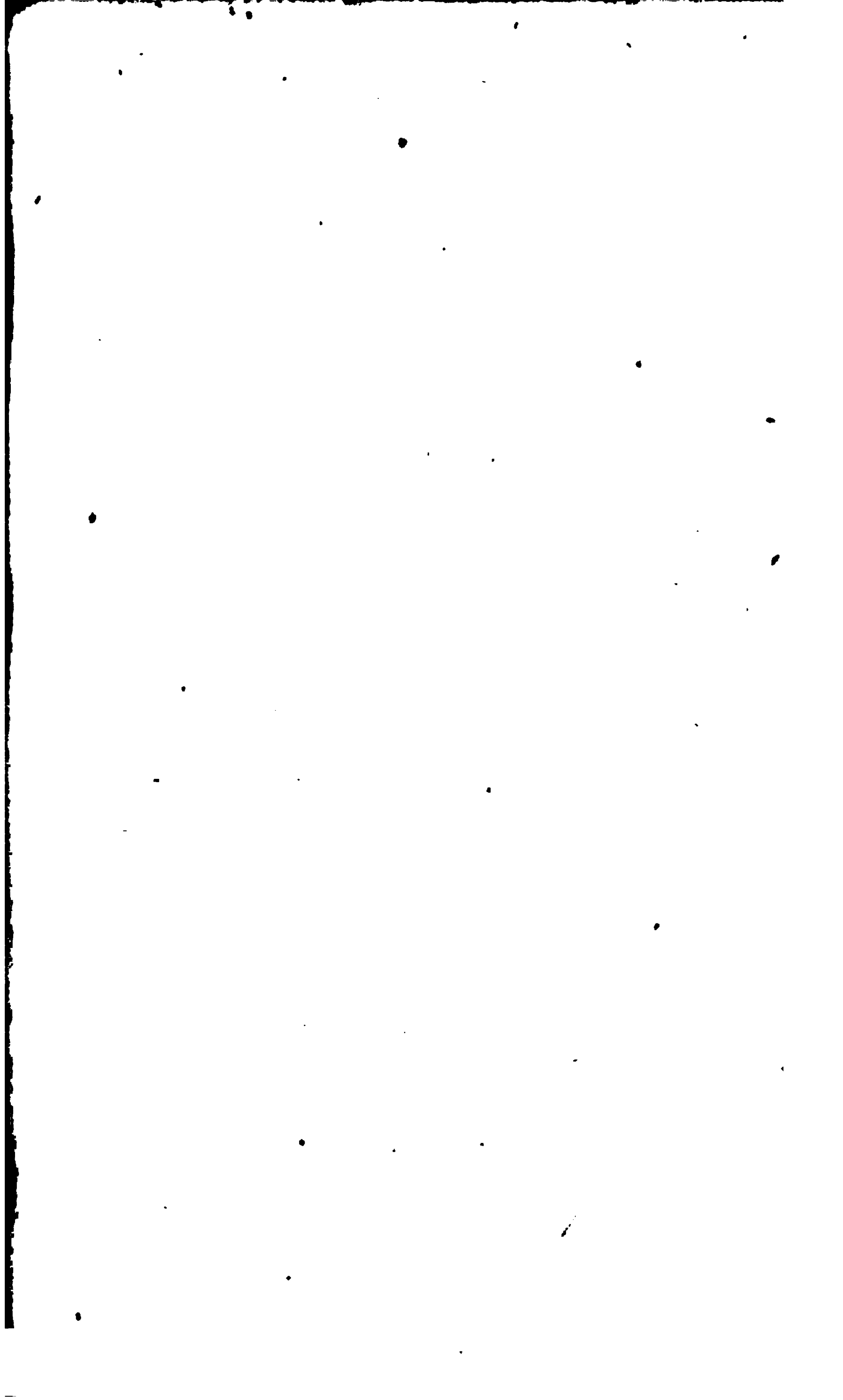
XXIV. § 10. The directors for the time being shall have power to appoint such officers, clerks, and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively as shall be reasonable; and shall be capable of exercising all such powers and authorities for the well governing of the affairs of the said corporation as shall be prescribed by the laws, ordinances, and regulations of the same.

Directors
to appoint
officers,
clerks, &c.

XXV. § 11. The following rules, regulations, restrictions, limitations, and provisions, shall be and form the fundamental articles of the constitution of the said corporation. No stockholder shall be entitled to more than one vote for each and every share he may hold: they shall be entitled to vote by proxy, he being a stockholder. No director shall receive any emolument; nor shall any person be a director who is not a stockholder. The stockholders may allow the president a salary or

Funda-
mental ar-
ticles of
the consti-
tution of
the bank.

other compensation." Not less than five directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director properly authorised by him by an instrument in writing. A number of stockholders, not less than twenty-five, being altogether owners of fifty shares, shall have power to demand a general meeting, and the president shall call one within thirty days after the communication of their request. Every cashier or treasurer shall give bond and security before he enters on the duties of his office, in the sum of ten thousand dollars, and the other officers, clerks, or servants of the corporation shall give such security as the directors shall require. The stock of the said corporation shall be transferable and alienable, agreeable to such rules and regulations as the corporation shall from time to time make for that purpose. Bills, bonds, and notes signed by the president and countersigned by the cashier shall be binding and obligatory on the corporation. Half-yearly dividends shall be made of such part of the profits of the bank as shall appear advisable. The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold; shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale on judgments which shall have been obtained for such debts. Nor shall this corporation, directly or indirectly deal or trade in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time or in goods the produce of its lands: neither shall the said corporation take more than at a rate of a half per centum for thirty days, for or on account of its loans or discounts. The total amount of notes emitted or thrown into circulation by the said corporation, together with their debts of every description, shall not at any time exceed the sum of six hundred thousand dollars over and above the monies then actually deposited in the bank in safekeeping, unless the contracting of any greater debt shall have been previously authorized by a law of the state; in case of excess, the directors under whose administration it shall happen shall be liable for the same.



their natural private capacities, and an action of debt may be brought against them or any of them, or their heirs, executors, or administrators, in any court of record, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporation, or the lands, tenements, goods, or chattels of the same, from being also liable for and chargeable with the said excess; such of the directors who may have been absent when such excess was contracted or created, or who may have dissented from the resolution or act whereby the same was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with and before some notary public, and to the stockholders at a general meeting, which they shall have power and are hereby required and directed to call for that purpose.

XXVI. § 12. Repealed.

XXVII. § 13. If the State of North-Carolina, shall at any time within three years deem it advisable to become interested in said bank, it shall and may be lawful for the said state to cause to be subscribed therein an amount not exceeding two hundred and fifty shares of one hundred dollars each; in which case notes and bills may be issued by said bank, founded on the extension of capital produced by the subscription and payment in consequence thereof, on the part of the state, to a greater amount than before authorized, in the same ratio as the original capital stock created by this act: But nothing in this act shall be construed to give any precedence or preference to the bank created by this act, to any state bank which may hereafter be established at the town of Newbern or elsewhere; and the said bank may become (on such terms as may be agreed on) a branch of any general state bank which may be established in the city of Raleigh or elsewhere.

State may become interested in said bank.

This bank not to have preference to any state bank.

XXVIII. § 14. As soon as five hundred shares shall be subscribed, the commissioners in the town of Newbern may, and are hereby authorized to provide a house for transacting the business of said bank, together with all necessary stationery, utensils, paper, and vaults for carrying on the business thereof, so that the said bank may commence its operations as soon as directors shall be appointed.

A house &c. to be provided.

1807. C. 3.

Treasurer
to sub-
scribe for
250 shares
in each
bank.

Manner
of paying
for shares.

Treasurer
&c. to ap-
point 3 di-
rectors for
each bank.

Notes of
these banks
to be re-
ceived in
payment
of public
dues and
at treasury

Offices of
discount

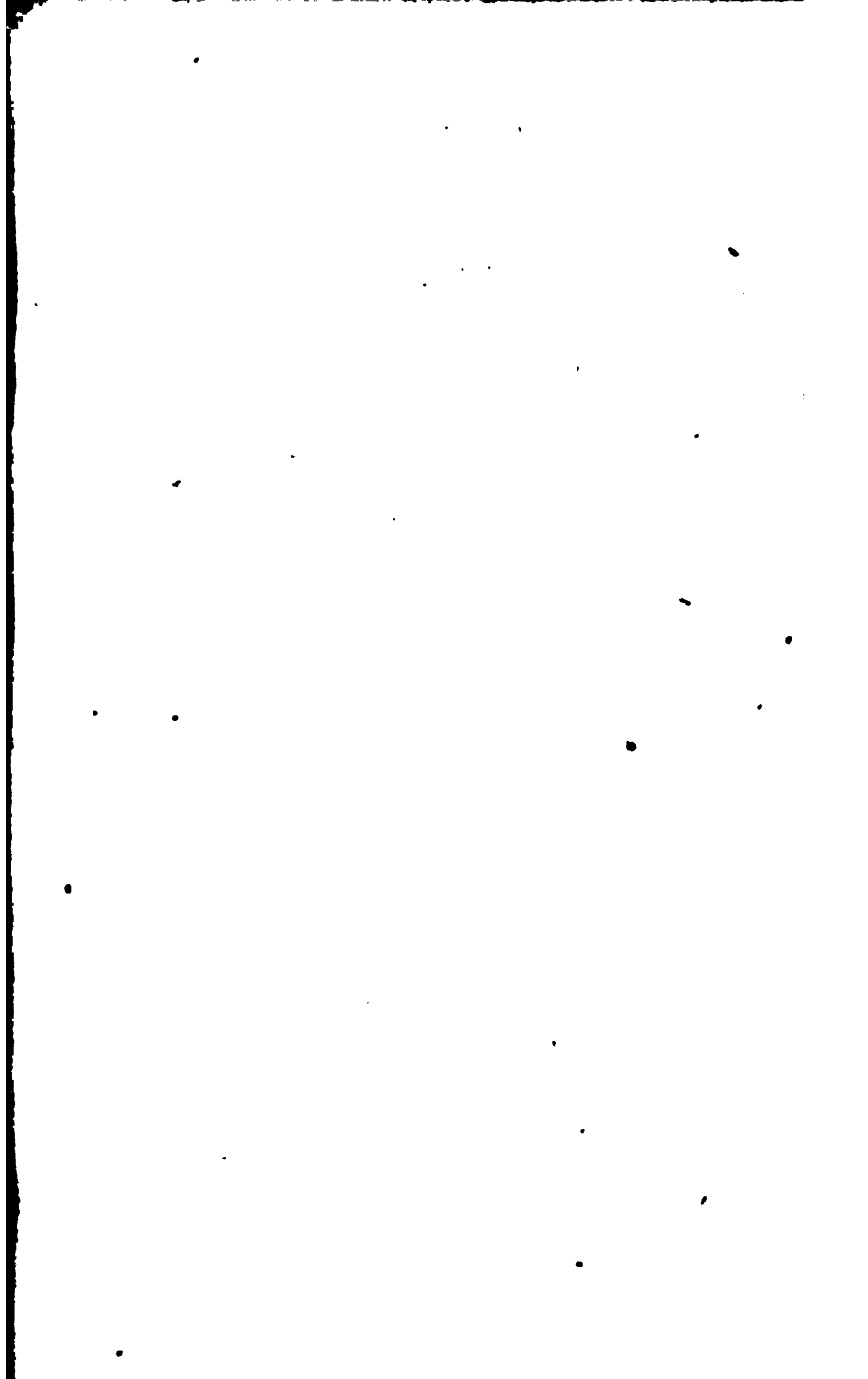
XXIX. § 1. *Be it enacted, &c.* The treasurer be and he is hereby authorized to either or both of said banks, [*that is to say, Newbern and of Cape Fear*] at such time as he shall deem it expedient, and he and the directors of said banks or either of them shall agree on, for two hundred and fifty shares of bank stock, on the following terms and conditions, to wit: That he pay at the time of subscribing, out of any monies of the currency of this state in the public treasury, one third of the amount of the said shares: that he pay at the expiration of twelve months thereafter one other third of the said amount, and at the expiration of twelve months after the payment of the last mentioned third, the remaining third and full amount of the said shares; and that for the deferred payments he pay an interest at the rate of four per centum per annum from the time of subscribing: Provided however, that after paying the last instalment to either of the aforesaid banks, the treasurer shall be authorized to borrow therefrom the amount of the said instalments from time to time, on the terms on which loans are made therein, until the dividends received be sufficient to pay off the sums borrowed.

XXX. § 2. The treasurer, together with the comptroller and secretary, or any two of them, are authorized and empowered to appoint three additional directors of each or both of the banks in which subscriptions shall be made as aforesaid, and the directors for each or either of said banks so appointed, shall possess the same qualifications, have the same power, and be subject to the same rules, regulations, and restrictions, as the other directors which shall be chosen by the stockholders.*

XXXI. § 3. In case the directors of said banks respectively, or either of them, shall accept of the above stated terms and the subscriptions shall be made by the treasurer for the number of shares first above stated, then and in that case the bank notes of the bank or banks in which the said subscriptions shall be made, shall be and are hereby declared to be receivable in payment of all public dues, and at the public treasury.

XXXII. § 4. It shall be lawful for the president and directors of each of the aforesaid banks to establish offices of discount, or offices of discount and deposit, at other places than the towns wherein the said banks are fixed,

* The influence of the state in the election of directors is provided for in a different way by the act of 1814.



or where, by their respective charters, branches may be established; provided that not more than two such offices, established. other than aforesaid, shall be established and kept in existence by either of the banks at the same time, and that the management of such offices be committed to such persons, and under such agreements, and subject to such regulations as the president and directors respectively may deem proper, not contrary to the constitution of this state or of the United States or of the aforesaid corporations: Provided also, that no office of discount or of discount and deposit, shall be established by either of the said banks, unless they accede to the terms of subscription proposed by this act on the part of the state.

XXXIII. § 6. The said banks, in consequence of any subscription by the treasurer in behalf of the state, shall have power to issue notes only in the same ratio as ^{Power to issue additional notes.} that established by their respective charters, that is to say, in the ratio of three for one, on the amount of its capital stock actually subscribed and paid for, over and above the monies deposited for safekeeping.

1810. C. 5.

XXXIV. § 1. A bank shall be established in the State of North-Carolina, the capital stock whereof shall ^{State Bank} not exceed one million six hundred thousand dollars, divided into shares of one hundred dollars each. ^{Capital.}

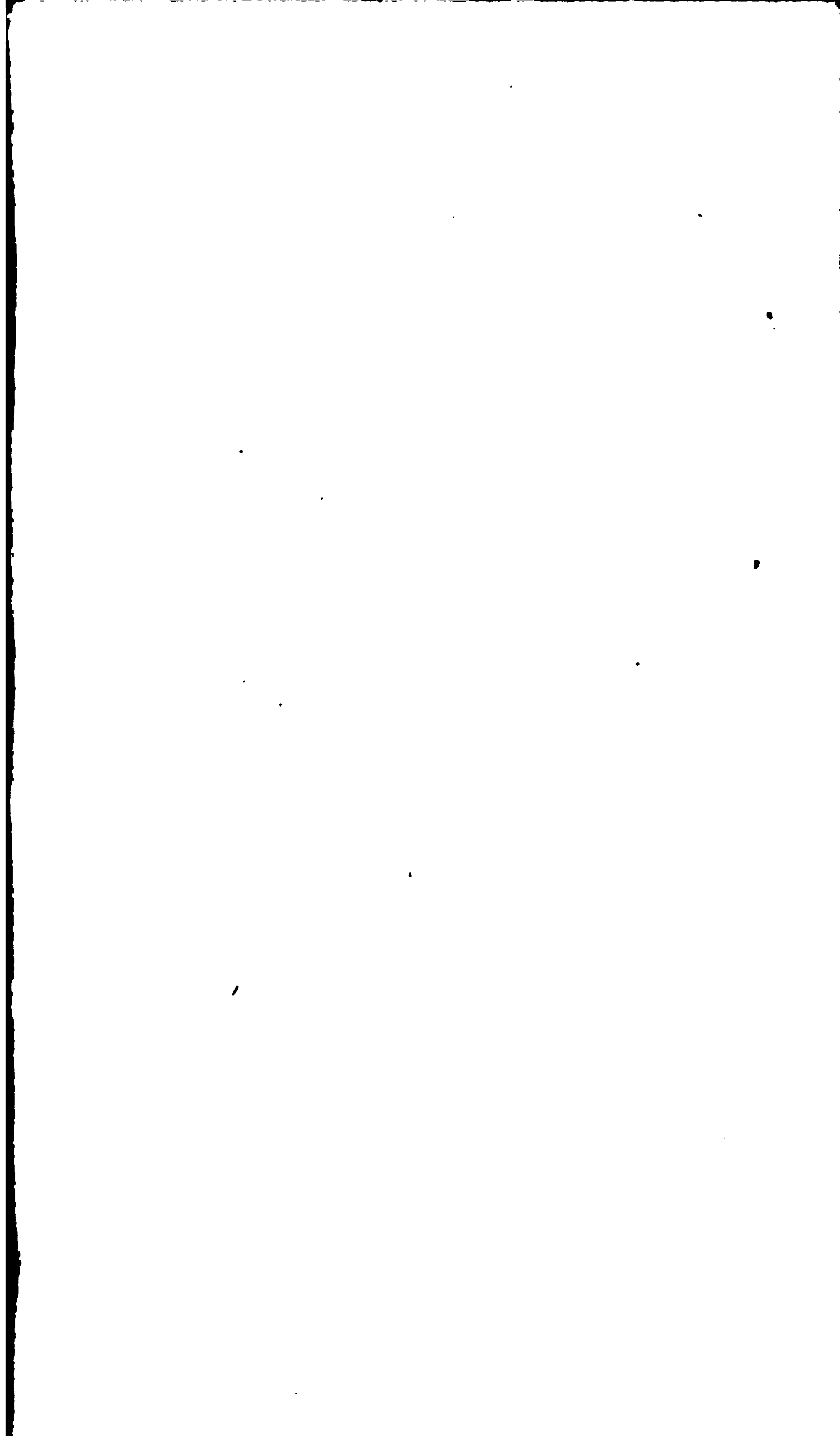
XXXV. § 2. The bank so established, shall consist of one central principal bank, to be fixed at the city of Raleigh, the capital of which shall be three hundred thousand dollars, and the several branch banks hereinafter named, viz. at Edenton, the capital stock whereof shall ^{To consist of a principal & several branch banks.} be two hundred thousand dollars; at Newbern, with a capital stock of three hundred thousand dollars; at Wilmington, with a capital stock of three hundred thousand dollars; at Fayetteville, with a capital stock of two hundred thousand dollars; at Tarborough, with a capital stock of one hundred thousand dollars; and at Salisbury, with a capital stock of two hundred thousand dollars. It shall and may be lawful for the treasurer to cause to be subscribed for and in behalf of the state, the sum of two hundred and fifty thousand dollars, which sum shall be reserved for the use of this state, to be paid for in stock of the United States, and the residue in gold and silver, at such time or times as it may be convenient for the state to pay the same. The stock so subscribed and paid for on account of the state, consisting either in money or certificates of the United States, shall be dis-

BANK.

tributed and divided among the banks, in proportion to the capital apart for each establishment. [*Here the commissioners appointed at the subscriptions.*] A majority of the each or any of the above mentioned petent to perform the duties of the in the number of shares allotted to be subscribed within the term of a Books to be opened. keep the said books open for six months, and no longer. But the corporation by this act created, may, at any future time, open books to receive subscription, for the remaining shares unsubscribed, at such time and place, and under the superintendence of such persons, as they may deem advisable and expedient. But in the mean time, When the bank shall be into operation. it shall be the duty of the commissioners of the respective branch banks, as soon as they shall actually have received twelve thousand five hundred dollars, to give notice of the same to the commissioners of the principal bank at Raleigh, who shall forthwith notify the same in all the papers published in Raleigh; and the same persons shall, at the same time, notify the time and place within the city of Raleigh at the distance of thirty days from the time of such notification, for proceeding to the choice of nineteen directors, and it shall be lawful for such choice then and there to be made. And the nineteen persons who shall be then and there chosen, shall be the first directors, and shall be capable of serving until the first Monday in December thereafter, by virtue of such choice, or until their successors shall be duly elected; and the said directors shall forthwith commence the operation of a bank in each of the towns previously enumerated, whose commissioners shall have given them notice of the requisite sums being actually received for the use of the corporation.

per currency not be a tender to or in the bank. XXXVI. § 3. That the paper currency now in circulation, and which was emitted by law in 1783 and 1785, on the faith and credit of this state, shall, immediately after the bank goes into operation, cease to be a legal tender in payment of all debts due to, or owing from the said bank, and notification thereof shall be made by the proclamation of his excellency the governor in the papers published in the city of Raleigh.

adgments favor of XXXVII. § 4. That all courts of justice within this state when any suit may be brought before them, on any debt due by bill, bond, note, or otherwise, against the



President and directors of the state bank of North-Carolina by any person or persons, or by any bodies politic or corporate; or when any suit may be brought by the President and directors of the state bank of North Carolina, against any person or persons, bodies politic or corporate, who shall or may be indebted to the bank aforesaid, by bill, bond, note, or otherwise, it shall and may, in such cases, be lawful, and the courts are hereby authorised and empowered to grant judgments in gold or silver, in the same manner as if no tender law existed. And the sheriffs are hereby required, in all such cases where such executions shall have been awarded, to collect the amount in gold and silver, and make due return of the same.

XXXVIII. § 6. The dividend accruing upon the shares in the said bank, owned by the state, shall be applied towards the redemption of the paper currency of this state paid into the bank by virtue of this act.

XXXIX. § 7. The subscribers to the said bank, their successors and assigns, shall be and are hereby created and made a corporation and body politic, in law and in fact, by the name and style of "The President and Directors of the State Bank of North-Carolina," and shall continue until the first day of January, in the year one thousand eight hundred and thirty, and by the name and style aforesaid, they shall be, and are hereby made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to themselves and their successors, lands, rents, tenements, hereditaments, goods, chattels, and effects, to an amount not exceeding in the whole two millions five hundred thousand dollars, including the capital stock aforesaid, and the same to sell, grant, demise, alien, or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew at their pleasure, and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the laws of this state or of the United States; and for the making whereof general meetings of the stockholders may be called by the directors, in the manner hereinafter specified, and generally to do and execute all acts, matters, and things, which a corporation or body politic in law may or can lawfully do or execute, subject to the rules, regulations, restric-

State dividends to go to the redemption of the paper currency.

Subscribers incorporated.

tions, limitations, and provisions, hereinafter declared.

Directors
of the prin-
cipal bank
to appoint
those of
the branch-
es.

XL. § 8. That the directors of the principal bank, for the time being shall have and appoint thirteen directors for each branch and officers, clerks, and servants under themselves, as well as for the several branches, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the said corporation as shall be prescribed, fixed, and determined, by the laws, regulations, and ordinances of the same.

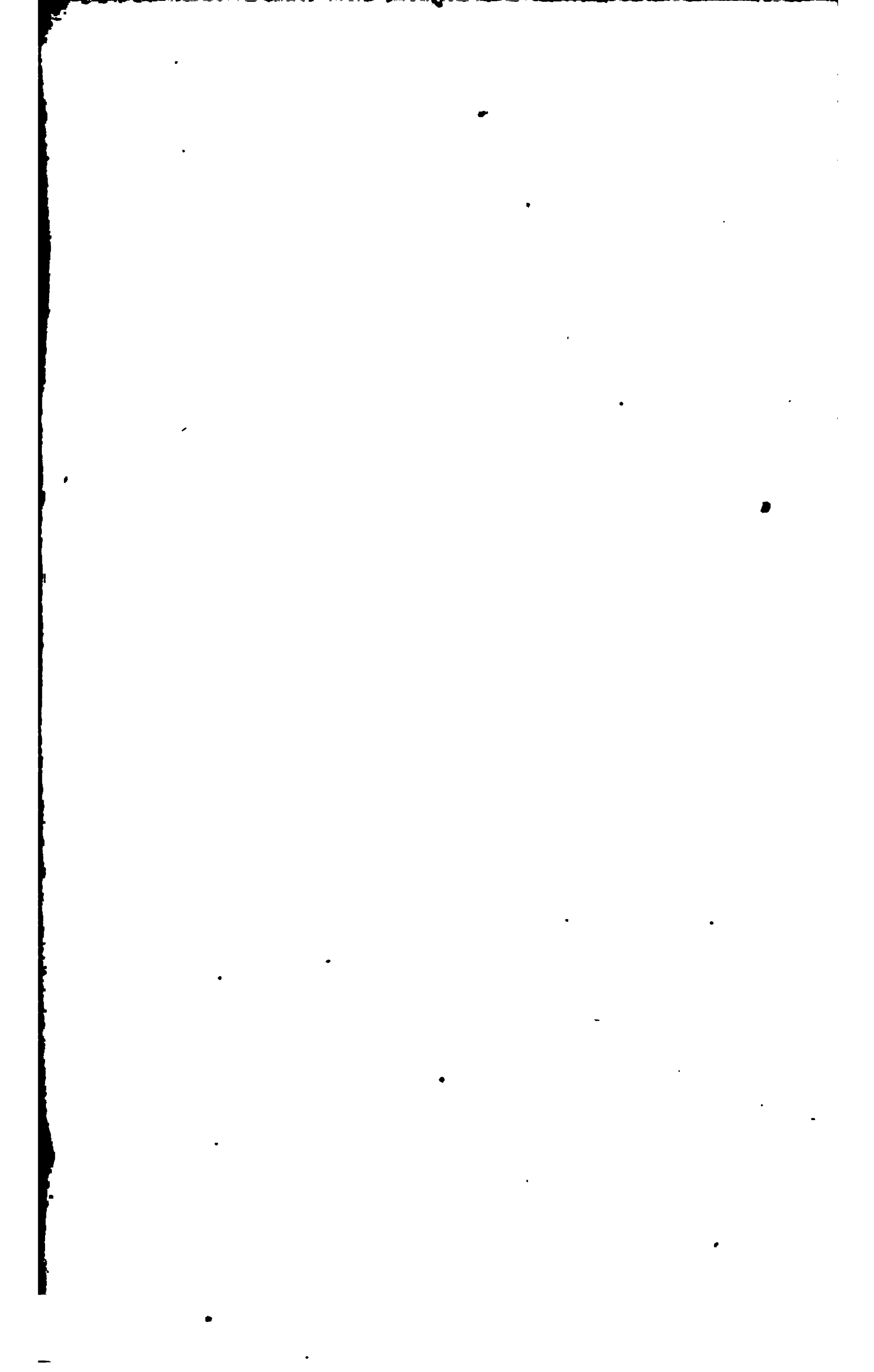
Constitu-
tion of the
corporation.

XLI. § 9. That the following rules, regulations, restrictions, limitations, and provisions, shall form and be the fundamental articles of the constitution of the said corporation.

First. The number of votes to which each stockholder shall be entitled, except the state, shall be according to the number of shares he shall hold, in the proportion following, that is to say, for one share, and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten, & not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, partnership, or body politic shall be entitled to a greater number than thirty votes. The treasurer, at all elections for directors, shall, on behalf of the state, have the same number of votes to which the greatest number of stockholders may be entitled, possessing an equal number of shares with those owned by the state at the time of such election. And after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the state, and none other, shall vote in elections, and at general meetings of the corporation by proxy.

Second. None but a stockholder, being actually resident within the state, shall be eligible as a director.

Third. None shall be entitled to any vote, unless the same shall have been allowed by the majority at a general meeting. The stockholders at



compensation to the president for his extraordinary attendance at the bank, as shall appear to them reasonable.

Fourth. Not less than seven directors, at the principal bank, and five directors at each one of the branch banks, shall constitute a board for the transaction of business; of whom their respective presidents shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director whom he, by writing under his hand, shall nominate for the purpose.

Fifth. A number of stockholders, not less than sixty, who together shall be proprietors of two hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least ten weeks notice in a public gazette of the place where the principal bank is kept, and specifying in such notice the object or objects of such meeting.

Sixth. Every cashier or treasurer before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction of the directors, in a sum not less than ten thousand dollars, with condition for his good behaviour.

Seventh. The lands, tenements, hereditaments, which shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Eighth. The total amount of the debt which said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed the sum of four millions eight hundred thousand dollars, over and above the sum then actually deposited in the bank for safekeeping, unless the contracting of any greater debt shall have been previously authorised by a law of the state. In case of excess, the directors under whose administration it shall happen, shall be liable for the same in their natural and private capacities, and an action of debt may in such case be brought against them, or any of them, their, or any of their heirs, executors, or administrators in any court of record of the state, by any creditor or creditors of said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the con-

trary notwithstanding. But this shall not exempt the said corporation, or the goods, or chattels of the same, from being and chargeable with the said excess. The directors who may have been absent when the same was contracted, or created, or who may be so from the resolution or act whereby the same was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with or before some notary public, and to the stockholders at a general meeting, which they shall have power to call for that purpose.

Ninth. The said corporation may sell any part of the public debt whereof its stock shall be composed, but shall not be at liberty to purchase any public debt whatever, nor shall directly or indirectly, deal or trade in the sale of goods really and truly pledged for money lent and not redeemed in due time, or of goods which shall be the produce of its lands. Neither shall the said corporation receive more than at the rate of six per centum per annum upon its loans or discounts.

Tenth. No loans shall be made by the said corporation for the use, or on account of the government of the United States, to an amount exceeding one hundred thousand dollars, or of any particular state to an amount exceeding fifty thousand dollars, or of any foreign prince or state, unless previously authorised by a law of the state.

Eleventh. The stock of said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf by the laws and ordinances of the same.

Twelfth. The bills obligatory and of credit, under the seal of said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon under the hand or hands, of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in and every assignee or assignees successively, and to enable such assignee or assignees, to bring and maintain an action thereupon, in his, her, or their own name or names. And bills or notes which may be issued by order of said corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and

lignatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons if issued by him or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable, in like manner as if they were so issued by such private person or persons: that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner and with like effect, as foreign bills of exchange now are; and those which are payable to bearer, shall be negotiable and assignable by delivery only.

Thirteenth. Half yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable; and, once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of all the affairs relative to the bank, and divide the surplus profits.

Fourteenth. It shall be the duty of the directors of the principal bank to cause discounts to be granted and deposits to be received by the directors of the several branch banks, upon the same terms and in the same manner as shall be practised at the principal bank, due regard being had to the amount of capital actually possessed by the several establishments. They may require the cashier of each bank to furnish them, from time to time, as often as they may think necessary, not exceeding once a week, with statements of the amount of the capital stock of their particular office, and of the debts due the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand. Nothing, however, shall be construed in this section, to give a right to the directors of the principal bank for removing the capital stock, or any part thereof, of one branch to that of another, or to the principal bank, or to establish any branch bank other than that is now, or may be hereafter established by law. The officer at the head of the treasury department of the state shall be furnished, from time to time, as often as he may require, not exceeding once in three months, with a statement of the amount of the capital stock of said corporation, and of the debts due to the same, of the monies deposited therein, of the notes in circulation, and of the cash in hand: and shall have a right to inspect such general accounts in the books of the bank as shall relate to

the said statements. Provided, that this shall not be construed to a right of inspecting the account of any private individual or individuals with the bank.

XLII. § 10. The bills or notes of said corporation, originally made payable, or which shall have become payable on demand in gold or silver coin shall be receivable in all payments to the state.

XLIII. § 11. No other bank shall be established by any future law of this state, during the continuance of the corporation hereby created; for which the faith of this state is hereby pledged.

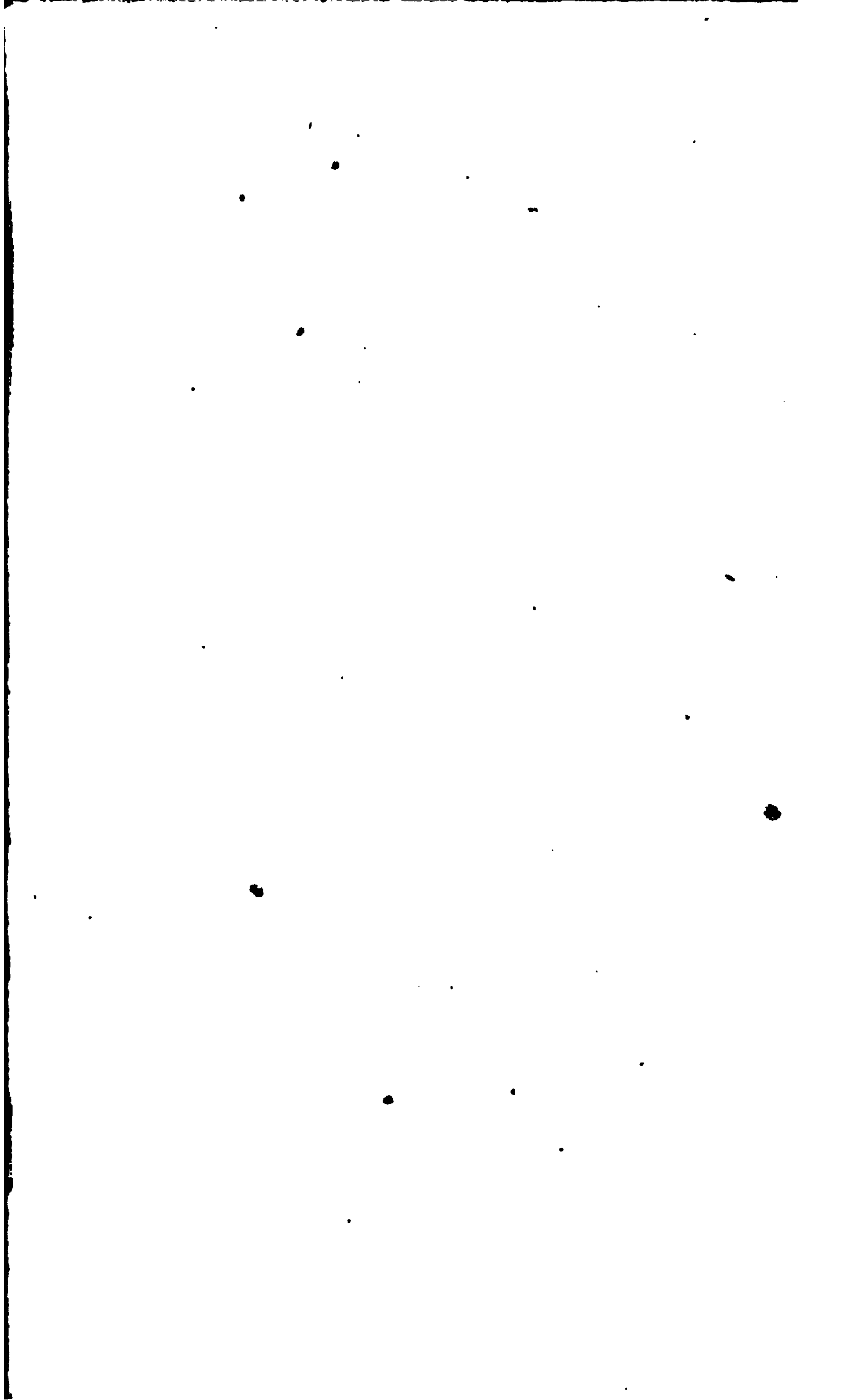
XLIV. § 14. No note shall be negotiable at the bank, unless it be so expressed on the face.

XLV. § 15. No note shall be issued by the state bank of North Carolina for a less sum than one dollar.

1811 C. 1.

XLVI. § 1. Whereas the subscriptions to the capital stock of the state bank of North-Carolina have fallen short of the sum authorised to be subscribed thereto by the above recited act [1810, c. 5,] and it becomes necessary in consequence thereof, to modify the conditions upon which by the said act the charter of incorporation was granted, in order to enable the state through the agency of the bank to effect one of the principal objects had in view in its establishment, the redemption of the paper currency:—It is enacted, that the president and directors of the state bank of North-Carolina shall not be bound to pay to the state full dividends upon the whole sum of two hundred and fifty thousand dollars of the stock of the said bank, reserved by the above recited act to the use of the state, and upon which by the said act the state is entitled to full dividends; but it is hereby declared to be lawful for the said president and directors, out of the full dividends to be declared on the said sum of two hundred and fifty thousand dollars held by the state in their stock, to retain at the end of each year, for the general benefit of the stockholders, including the state, a sum equal to four per centum, upon such part of the said stock as shall not have been actually paid for by the state on the day when the dividend is declared, out of which the retainer is made.

XLVII. § 2. And as an additional consideration on which to engage the agency of the said bank in the redemption of the paper money of the state,—it is further enacted, that on condition the president and directors of



the said bank shall take up and entirely withdraw from circulation, in the manner hereinafter prescribed, the whole of the paper money issued by the state, by virtue of the acts passed for the purpose in the year one thousand seven hundred and eighty three, and one thousand seven hundred and eighty five, on or before the eighteenth day of December one thousand eight hundred and seventeen, and not permit the same nor any part thereof to return again into circulation, after having once been in their possession, either by payments made, or to be made on account of the fourth instalment of the capital stock of the said bank, or in any other manner whatever: it is hereby declared that the charter of incorporation of the said bank shall be extended to the first day of January which shall happen in the year one thousand eight hundred and thirty five, upon the same terms as the said charter is now held, and with the same engagement on the part of the state that no other bank shall be established by any future law of the state during the extension: and the faith of the state is hereby pledged, as a further consideration for the said redemption, that no tax or imposition shall be laid on the capital stock of the said bank, nor on the dividends to be declared thereon.

Charter
to be ex-
tended.

No other
bank to be
establish-
ed during
this ex-
tension;
and no tax
to be laid.

XLVIII. § 3. In order to the complete performance of the condition on which the grant and exemption in the next preceding section are made in favour of the stockholders of the said bank, it shall be the duty of the president and directors of the said bank to cause public notice to be given by advertisement, in all the papers published in the city of Raleigh, for six weeks next immediately preceding the eighteenth day of December, in the year one thousand eight hundred and sixteen, that they will, for the term of one year commencing on that day and following next thereafter, take up and exchange all the paper currency of the state which shall be presented for the purpose of being taken up and exchanged, at the principal bank, or at any of its branches, by giving in exchange therefor, in the notes of the said bank, or gold or silver, at the option of the holder of the said paper money, the full sum for which the paper money so to be presented shall amount, after the rate of one dollar for ten shillings of the said paper money: And it shall further be the duty of the said president and directors actually to take up all the paper money of the state which shall within the said term of one year be presented for exchange as aforesaid, and to give in exchange therefor, in the notes of the said

Paper mo-
ney to be
redeemed
by the
bank.

bank, or in gold or silver, at the option of the holder of the paper money, after the rate of one dollar for ten shillings of the monies to be presented for exchange as aforesaid: and upon its being made to appear to the satisfaction of the governor of the state, by the said president and directors, at any time within six months after the eighteenth day of December which shall happen in the year one thousand eight hundred and seventeen, that the said president and directors have faithfully complied with the preceding terms, and have given the required notices at the times and in the manner above prescribed, and have actually exchanged for and taken in all the paper money of the state which shall have been presented to the said bank or any of its branches, in pursuance of the notices above prescribed, and faithfully paid therefor in the manner and after the rate also above prescribed, it shall be lawful for the governor of the state to make known the same by proclamation, and in the said proclamation to declare that the said paper money shall thenceforward cease to be a tender: And it is hereby further declared, that on the date of said proclamation, the said paper money shall cease to be a tender in all cases whatever, except in payments to be thereafter made to the said state bank of North Carolina: in all which payments to the said bank it is hereby declared it shall thereafter be a tender: and when received by the said bank shall not again return into circulation by any means whatever, but remain in its vaults until redeemed and destroyed in the manner hereinafter prescribed. Provided always, that if the fund established for the redemption of the said paper money, shall not effect the entire redemption thereof before the charter of the said bank shall expire, or by common consent of the stockholders or otherwise, be dissolved, then and in that case, the said paper money shall again be considered as a tender in all payments whatever as heretofore.

XLIX. § 4. The dividends accruing upon the whole sum reserved and held by the state, in the stock of the said bank, after deducting therefrom four per centum per annum on the amount of the said stock not paid for by the state (in the manner prescribed in the first section of this act) shall invariably and from time to time as the said dividend shall be declared and paid, be applied to the redemption of the paper money remaining in the vaults of the bank; which paper money, when so redeemed and actually paid over to the state, or its agent the

public treasurer, shall by the said treasurer, in the presence of the comptroller and secretary of state, and also in the presence of the president of the bank, be burnt and destroyed.

L. § 5. The president and directors of the state bank of North Carolina, at such time or times as shall be convenient to them, and under the direction of such persons as they may appoint, shall cause books to be opened at all or any of the places where, by the act of incorporation, books were directed to be opened, for the purpose of receiving further subscriptions to the capital stock of the said bank; and if subscriptions shall not have made been to the full amount of said capital stock, previous to the first day of January one thousand eight hundred and twenty, then and in that case it shall be the duty of the said president and directors forthwith to cause books to be again opened as aforesaid, for the purpose of receiving subscriptions to the capital stock of the said bank to the full amount authorised by their charter; which books shall be kept open six months, or until the whole of the said stock shall be subscribed: And if it shall happen, when the books shall be opened as aforesaid, that a greater sum shall be subscribed at any place than is permitted by the charter to be employed at such place, it shall be lawful for the president and directors to reduce such subscriptions, according to a scale by them to be established for the purpose.

Books to be opened for further subscriptions.

L.I. § 6. It shall be lawful for the public treasurer to cause to be deposited in the bank the money which may at any time be in the treasury of the state; and when deposits shall be made in the notes of the Newbern or Cape Fear banks, or of any other bank, it shall be lawful for the state bank to answer the checks or drafts to be made upon such deposits, by repaying the notes actually deposited, or by notes of the state bank, at the option of the directors.

Treasurer authorised to deposit public money in bank.

L.II. § 7. In addition to the number of directors required for the principal bank, by the act to which this is an addition, the public treasurer of the state shall, ex officio, be a director of the principal bank.

Treasurer appointed a director.

1814. C. 6.

L.III. § 1. The act entitled "An Act to establish a bank in the town of Wilmington," and so much of an act entitled "An Act to incorporate the Newbern Marine Insurance Company, and to establish a bank in said town," passed in the year one thousand eight hundred and

Former acts continued.

BANK

four, as relates to the bank of Newbern, and all other acts subsequently passed, relating to the management, direction, and affairs of said banks, shall be, and the same are hereby continued in force until the first day of January in the year of our Lord one thousand eight hundred and thirty-five, except as hereinafter provided for.

Additional
shares.

LIV. § 2. The president and directors of the bank of Cape Fear shall be and they are hereby authorised to add to the capital stock of said bank five thousand two hundred and fifty shares, and the president and directors of the bank of Newbern shall be and they are hereby authorised to add to the capital stock of said bank five thousand seven hundred and fifty shares, of one hundred dollars each.

Times for
payments

LV. § 4. Ten dollars upon each share subscribed, shall be paid at the time of subscribing, and the remaining ninety dollars in payments of ten dollars every sixty days thereafter until the whole shall be paid; the said deferred payments bearing interest at the rate of six per centum per annum until paid; and it shall be at the option of each subscriber to fill up his share or shares by payment of the residue of the money due thereon; and each subscriber paying in advance shall have a discount at the rate of six per centum per annum on such advance.— When fifty dollars on any share shall be paid, the holder thereof shall be entitled to receive dividends on the whole share; and on failure to make payment punctually of any of the said first mentioned five instalments on every share, the subscriber so failing shall forfeit to the use of the company all the money that has been previously paid on such share; and such share shall be sold by the president and directors for the benefit of the company, but there shall be no forfeiture after the payment of fifty dollars on each share.

Shares
forfeited

Banks re-
quired to
loan the
state.

LVI. § 5. The president and directors of said banks shall at all times from and after the passing of this act and during the continuance of the same, be bound and obliged to make a loan or loans to the state of North Carolina, if required and authorised by law, of any sum or sums of money not exceeding in the whole at any one time one tenth part of the actual stock of said banks respectively, and at a rate of interest not exceeding six per centum per year, to be paid yearly. Provided, that it shall be the duty of the treasurer to make application in writing to the president and directors of said banks for



such loan or loans at least three months previous to the time when such loan or loans shall be required.

LVII. § 6. Of the shares hereby allowed to be subscribed to the stock of the said banks one thousand shares in each shall be reserved for this state, and subscribed by the treasurer immediately upon the opening of the books for receiving subscriptions as aforesaid; and as a consideration of this amended charter granted to the said banks, the state shall be entitled to one hundred and ¹⁰⁰⁰ ~~and~~ ^{shares re-} ~~eighty~~ ^{served to} shares of the said one thousand shares in each ^{the state.} bank aforesaid, without paying any thing therefor; and at the expiration or earlier dissolution of the charter, the president and directors of the banks shall pay to the treasurer for the use of the state the same rate of dividend on the said shares, together with the shares, as may be paid to other stockholders, and shall be entitled to make payment for four hundred and ten shares in each of the said banks in treasury notes, to be issued as hereinafter directed, and shall be entitled to make payment for the remaining four hundred and ten shares in each bank at any time or times she may think proper during the continuance of this act, and shall not be bound to pay to either of the said banks interest upon the shares not paid for. But the interest which may accrue thereon shall be accounted for as hereinafter directed.

LVIII. § 7. The state shall be entitled to receive ^{Dividends} full dividends upon the one hundred and eighty shares ^{accruing} in each bank, mentioned in the preceding section, and ^{to the} ~~like~~ ^{state.} dividends upon four hundred and ten shares in each bank, to be paid for in treasury notes after the second dividend to be declared by the said president and directors after the first day of February next; and from and after the declaration of the said second dividend the state shall be entitled to receive whatever sum shall accrue upon the remaining four hundred and ten shares in each bank over and above six per centum per year, and the same dividend shall be declared upon the said remaining shares, as upon shares which have been fully paid for.

LIX. § 8. At all meetings of the stockholders of the said banks, and at all elections for directors, the governor for the time being or such other person or persons ^{Election} ~~as he or the Legislature may from time to time appoint,~~ ^{of stock-} shall act on behalf of the state, and shall have the same ^{holders.} number of votes to which the greatest number of stockholders may be entitled possessing an equal number of

shares, with those owned by the state at the time of such election; and the number of votes to which each stockholder shall be entitled, except the state, shall be according to the number of shares he shall hold, in the proportions following, that is to say, for one share, and not more than two shares, one vote; for every four shares above ten, and not exceeding thirty one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes. No share or shares shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident within the state, and none other may vote in elections, and at general meetings of the stockholders, by proxy. None but a stockholder, being a citizen of the state, and holding at least ten shares, shall be eligible as a director of the principal bank; nor shall a director of any other bank be eligible as a director of either of the said banks. Eleven principal directors shall be elected by the stockholders in each bank at their annual meeting for the well ordering of the affairs of the said corporations, seven of whom being directors of the Cape Fear bank, shall reside in the town of Wilmington, and seven being directors of the bank of Newbern shall reside in the town of Newbern. The board of principal directors of each Bank shall appoint annually the directors of the several branches and agencies, and other officers required at the said branches and agencies.

Calling
of stock-
holders.

Cashier
shall give
bond and
security.

A number of stockholders, not less than thirty, who together shall be proprietors of one hundred shares or upwards, shall have power at any time to demand a general meeting of the stockholders for purposes relative to the said corporations respectively: and upon such demand the president of the bank shall call such meeting, giving at least four weeks notice in a public gazette published in the city of Raleigh, and specifying in such notice the object or objects of such meeting. Every cashier of the said banks before he enters upon the duties of his office shall be required to give bond, with two or more securities to the satisfaction of the directors, in a sum not less than ten thousand dollars, with condition for his good behaviour. The total amount of the debts which either of the said corporations shall at any time owe, whether by bond

bill, note, or other contract, shall not exceed the sum of two millions four hundred thousand dollars, over and above the sum then actually deposited in the said banks respectively for safekeeping, unless the contracting of any greater debt shall have been previously authorised by a law of this state. Restrictions in discounts.

In cases of excess, the directors under whose administration it shall happen shall be liable for the same in their natural and private capacities; and an action of debt may in such case be brought against them, or any of them, their or any of their heirs, executors, or administrators, in any court of record of this state, by any creditor or creditors of said corporations, and may be prosecuted to judgment and execution: any condition, covenant, or agreement to the contrary notwithstanding. But this shall not be construed to exempt the said corporations, or the lands, tenements, goods, or chattels of the same, from being also liable and chargeable with the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, with or before some notary public, and to the stockholders at a general meeting, which they shall have power to call for that purpose. Directors liable in certain cases.

The treasurer of this state shall be furnished, from time to time, so often as he may require, not exceeding once in three months, with a statement of the amount of the capital stock of each of the said corporations, and of the debts due to each; of the monies deposited in each, of the notes in circulation, and of the cash on hand, and shall have a right to inspect such general accounts in the books of the said corporations, as shall relate to the said statements. Provided, that this shall not be construed to a right of inspecting the account of any private individual or individuals with the said banks. When required, treasurer to be furnished with a statement of the situation of the bank.

LX. § 9. From and after the first day of January in the year 1816, the paper money issued by this state in the year 1783 and 1785, shall cease to be a tender to or from either of the said banks, except to the state bank. When the paper currency shall cease to be a tender.

LXI § 10. The president and directors of the said banks of Cape Fear and Newbern shall not issue any note or notes under the sum of one dollar; and from and after the first day of July next, the 11th section of an act:

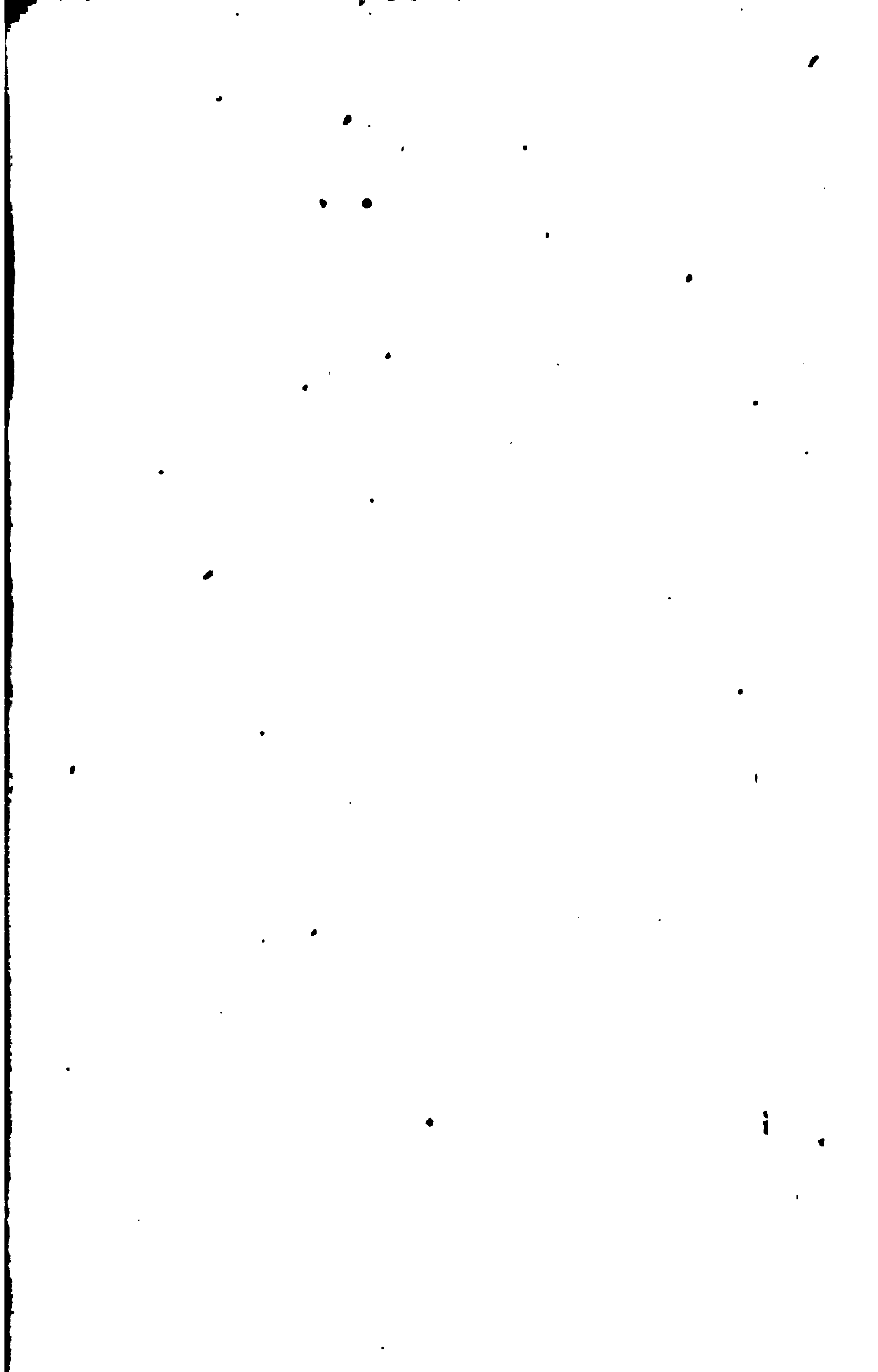
passed in the year 1804, entitled "An Act to establish a bank in the town of Wilmington," and the 12th section of an act passed in the same year, entitled "An Act to incorporate the Newbern Marine Insurance Company, and to establish a bank in said town," also an act passed in the year 1809, entitled "An Act to regulate the banks of Newbern and Cape Fear in certain cases," shall be and the same are hereby repealed and made void.

LXII. § 11. A tax of one per centum per annum shall be levied on all stockholders in each of the banks of Cape Fear and Newbern, except on the stock holden by this state, which shall be paid to the treasurer of this state, which shall be paid to the treasurer of this state, by the presidents or cashiers of said banks, on or before the first day of October in each and every year.

LXIII. § 12. The treasurer of this state shall be and he is hereby authorised and directed, as soon as he can conveniently do the same, to issue treasury notes to the amount of 82,000 dollars, of the following denominations, to wit, of five cents, ten cents, twenty cents, twenty-five cents, thirty cents, forty cents, and fifty cents; and the notes shall have such margin, and devices as the treasurer shall think proper to adopt,—shall be made payable to bearer at the treasury of this state;—shall be dated and signed by the treasurer, and immediately be paid over by him to the cashiers of the banks of Cape Fear and Newbern, in equal proportions, thereby paying to each of the said banks for four hundred and ten shares of stock in each, to be subscribed for the state as aforesaid. The said treasury notes shall not bear interest. They may be thrown into circulation by the said banks, and they shall be redeemed by the treasurer from time to time as they shall be presented for payment; but by him may again be circulated; and they shall be receivable in debts and taxes due to the state.

LXIV. § 13. The presidents of the banks of Cape Fear and Newbern shall make known to the governor of this state in writing, within four months after the first day of January next, their acceptance of this amended charter; and in case they fail to do so, this act and every part thereof shall become void and of none effect.

LXV. § 17. The president and directors of said banks may establish branches or agencies of their said banks at such place or places within this state as they may think proper, and commit the management of said branches and agencies, and the making discounts thereat, to such



persons as they may deem proper. Provided, that at each branch or agency so to be established, there be appointed not less than three directors, and that no such branch or agency shall be removed after its establishment, unless directed by the stockholders in their general meeting.

1816. C. 6.

LXVI. § 1. Whereas it is expedient and will be advantageous to alter and amend the charter of the state bank of North-Carolina, and whereas the stockholders of the said bank, at a general meeting, have given their assent to the following alterations and amendments of the said charter:—It is enacted, that the treasurer of this state shall be authorised and directed, and he is hereby authorised and directed, as soon as he can conveniently do the same, to issue the sum of 80,000 dollars in treasury notes, of the following denominations, to wit, of five cents, six and a quarter cents, ten cents, twelve and a half cents, twenty cents, twenty-five cents, thirty cents, forty cents, fifty cents, and seventy-five cents; and these notes shall have such margin and devices as the treasurer shall think proper to adopt,—shall be made payable to bearer, at the treasury of this state,—shall be dated, numbered, and signed by the treasurer, or by such person or persons as he may appoint and employ to assist him, in dating, numbering, and signing the same, under his immediate control, superintendence, and inspection, and immediately paid over by him to the cashier of said bank: they may be thrown into circulation by the said bank, and they shall be redeemed by the treasurer from time to time, as they shall be presented for payment, and by him may again be circulated, and they shall be receivable in debts and taxes due to the state. And the said treasury notes when so received by the cashier, shall be in part payment of the debt due from this state to the said bank, and the interest accruing on so much thereof, shall immediately cease.

Treasurer directed to issue \$ 80,000 in treasury notes.

BASTARDY.

See Vice and Immorality 8, 9, 10, 11, 12, 14, 15, 16. Illegitimate Children. Intestates' Estates 4.

BIGAMY.

1790. C. 11.

I. § 1. If any person now married, or who hereafter shall be married, doth take to him or herself another husband or wife, while his or her former wife or husband is

Penalty for bigamy

still alive, every such offence shall be felony; and the person so offending shall suffer death as in cases of felony. Provided always, that this act shall not extend to any person or persons whose husband or wife shall continually remain beyond sea for the space of seven years together, nor to any person or persons whose husband or wife shall absent him or herself in any other manner for the space of seven years together, such person or persons not knowing his or her said husband or wife to be living within that time.

Not to extend to certain persons.

II. § 2. This act shall not extend to any person or persons who are or shall be, at the time of such after marriage, divorced according to the mode established, or which shall hereafter be established by law; nor to any person or persons whose former marriage is by law declared to be void and of no effect, nor to any person or persons for or by reason of any former marriage had or made within the age of consent.

1809. C. 26.

Offenders adjudged felons.

III. If any person now married, or who hereafter shall be married, doth take to him or herself another husband or wife while his or her former wife or husband is still living, every such offender shall be a felon without benefit of clergy, and shall suffer death.

BILL OF EXCEPTION.

See Practice 5, 19. Superior Courts 1.

BILLS OF EXCHANGE.

1741. C. 16.

Foreign bills protested to carry ten per cent interest.

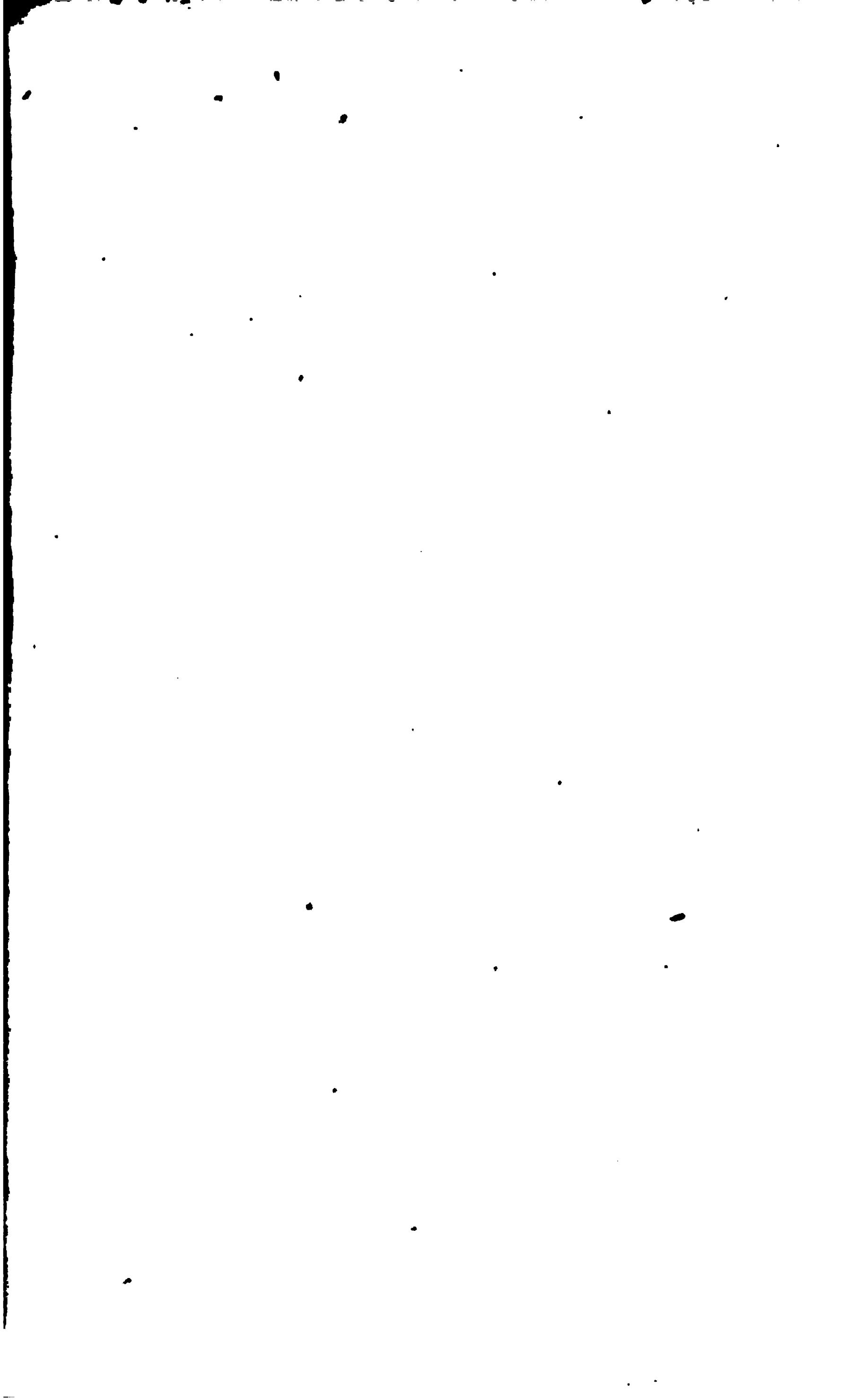
I. § 1. Where any bill of exchange is or shall hereafter be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested, for non-acceptance or non payment, the same shall carry interest from the date thereof, after the rate of ten per centum per annum, until the money therein drawn for shall be fully satisfied and paid.

Not more than eight month interest.

II. § 2. No person whatsoever shall pay more than eighteen months' interest from the date of any such bill till it shall be presented protested to the drawer or indorser thereof.

Damages 15 per cent

III. § 3. Where any bill drawn before the making of this act, or which shall hereafter be drawn, is or shall be protested as aforesaid, there shall be paid unto such



person or persons as shall have a right to demand the same, for his, her, or their damage in that behalf sustained, after the rate of fifteen per centum for the sum expressed in the said bill, together with the costs and charges of the protest, and no more.

IV. § 4. It shall and may be lawful for any person or persons having a right to demand any sum of money due upon a protested bill of exchange, to commence and prosecute an action for principal, interest, and charges of protest, against the drawer and endorsers jointly, or against either of them separately; and judgment shall and may be given for such principal draught and charges, and interest after the rate of ten per cent. per annum as aforesaid to the time of such judgment.

Drawer and indorser may be jointly sued.

1796. C. 22.

V. § 1. When any bill of exchange shall hereafter be drawn by any person residing in this state for the payment of any sum of money in any of the United States, in which the value is or shall be expressed to be received, and such bill shall be protested for non-acceptance or non-payment, the same shall carry interest from the date thereof, after the rate of six per centum per annum until the money therein drawn for shall be fully satisfied and paid.

Inland bill protested, to carry 6 per cent.

VI. § 2. Where any bill of the foregoing description which shall hereafter be drawn, shall be protested as aforesaid, there shall be paid unto such person or persons as shall have right to demand the same, for his, her, or their damage in that behalf sustained, after the rate of ten per centum on the sum expressed in the said bill, together with the costs and charges of protest, and no more.

10 per cent damages.

VII. § 3. It shall and may be lawful for any person or persons having a right to demand any sum of money due upon a protested bill of exchange of the description aforesaid, to commence and prosecute an action for principal, interest, damages, and charges of protest, against the drawer and indorsers jointly, or against either of them separately, and judgment shall and may be given accordingly.

Drawer and indorser may be jointly sued.

See Interest 2, 3.

BILL OF SALE.

See Slaves 44, 50, 51, 52, and Registration.

BIRTHS.

See Registration 1.

BOATS, CANOES, &c.

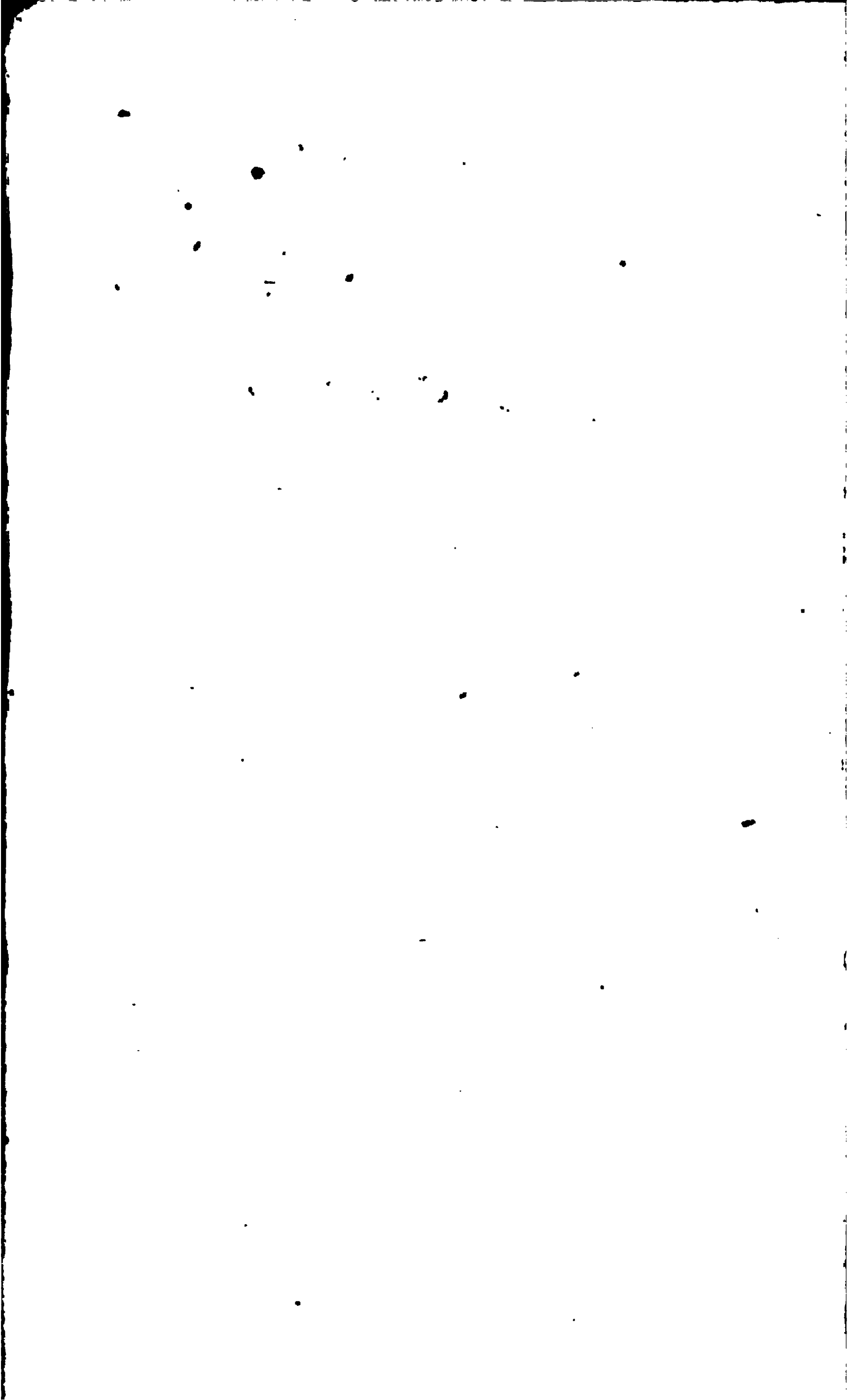
1741. C. 13.

I. § 2. Any person or persons, who after the taking of this act shall take away from any landing place where the same shall be, any boat, canoe or belonging to or in the custody of any person without the consent and leave of the owner or of such boat, canoe or pettiagau, or shall loose or loose such boat, canoe or pettiagau adrift, as er or offenders shall severally forfeit and pay to the party who shall own, or in whose custody and possession such boat, canoe or pettiagau was, the sum of twenty shillings proclamation money, to be recovered by a warrant from any justice of the peace within the county where the offence shall be committed, who is hereby empowered and required to hear and determine all such offences; and if any offender shall after conviction neglect or refuse to pay the said sum of twenty shillings proclamation money in such case it shall and may be lawful for the said justice by his warrant to commit such person to the jail of the county, where he shall remain until he shall have paid the same and the accruing costs.

II. § 3. Nothing in this act shall be understood or construed to debar any person from his or her action at common law, for any damage sustained by reason of any boat, canoe or pettiagau to them belonging, so taken or unloosed, unmoored or turned adrift, from any landing or other place where the same was left, against any person whatsoever, notwithstanding such person shall have paid the penalty by this act inflicted.

III. § 4. If any white servant, negro or slave, shall offend against this act and be thereof convicted, and the master, mistress or owner of such white servant, negro or slave shall refuse to pay the said sum of twenty shillings proclamation money, such servant or slave shall suffer correction by whipping, at the discretion of the magistrate, not exceeding thirty nine lashes.

IV. § 5. Neither this act, nor the penalties thereof shall be construed to extend to any person who shall press any boat, canoe or pettiagau by public authority, or to any person who shall seize his own proper boat, canoe or pettiagau, or to any person or persons being lawfully empowered so to do by the owner, from any place or landing or from any person in whose custody he shall find the same, or to any servant or slave taking any boat, canoe



nds

Office bond to be made
by the State.

any person injured in any way
in the same
see laws coming within the pen
now repealed

1833. C 17.

or pettiagau from any landing or other place by order of his or her master, mistress, or overseer.

V. § 6. If any master, mistress, or overseer shall order any servant or slave belonging to them, or under the care of any of them, to take from any landing, or other place, any boat, canoe, or pettiagau, contrary to the intent and meaning of this act, such master, mistress, or overseer of such servant or slave so offending, shall be liable to the forfeitures and penalties of this act, as if they, in their proper person, had done the same. Master, mistress, or overseer ordering, liable to the penalty

BONDS.

1790. C. 16.

I. § 3. It shall be the indispensable duty of the the Clerks of the county courts, and they and every of them are hereby strictly required to make a record of and enter at large on their dockets, the names of those justices of the peace who shall be in court, or on the bench at the time of the qualification of their sheriffs, clerks, entry-takers and registers; and if the said clerk shall fail or neglect to make such entry and record as aforesaid, and being thereof convicted in any superior court of the district in which the county shall be situated, he shall forfeit his office, as a punishment for such failure or neglect as aforesaid; which justices of the peace, in case of their failure to take the bonds by law required, shall be considered as being, and they are hereby declared to be bound and liable, to all intents and purposes, as the securities of such sheriff, clerk, entry-taker or register; from whom they may have failed to take bonds, in as full and ample manner as though such bonds were taken, and they had actually been named therein, and had subscribed the same as his or their securities, and they and each of them shall be proceeded against accordingly, by the treasurer and others concerned; in all which instances or suits, a copy of the record of the court, attested by the clerk, is hereby declared to be legal and sufficient evidence, shall be admitted as such, and judgment shall be had thereon accordingly. Clerk to record names of justices present, when certain officers qualify.

Justices failing to take bonds liable.

1791. C. 10.

II. § 2. All bonds that are or may be taken payable to the governor of this state and his successors, and directed by law to be assigned by him to the party injured, shall and may in future be sued and prosecuted in the Bonds payable to governor need not be assigned

name of the government by the party in the necessity of such assignment.

1793. C. 8.

Public of-
ficers' bonds su-
able in the
name of
the person
to whom
payable.

III. § 1. It shall and may be lawful or persons injured by the neglect, misbehaviour in office of any of the clerks of the county courts, clerks and masters in equity try-takers, surveyors, sheriffs, or constable suit or suits against the said officers and their securities, or any of them, upon their respective bonds, for the due performance of their duties in office, in the name of the person or persons to whom the said bonds are made payable, without any assignment thereon.

Party in-
jured to re-
ceive the
money re-
covered.

IV. § 2. The person or persons so injured and bringing suit as aforesaid, shall be and are hereby declared to be entitled to receive to his, her, or their own use, all monies so recovered, in like manner as if the suit or suits had never been instituted in his, her, or their own name or names on assignment as heretofore required, provided the person or persons so injured, and bringing suit as aforesaid, shall state in the declaration as he, she or they are hereby authorised to do, matter of inducement sufficient to show the court in which such suit or suits may be brought, at whose instance and in whose behalf the same is or are brought.

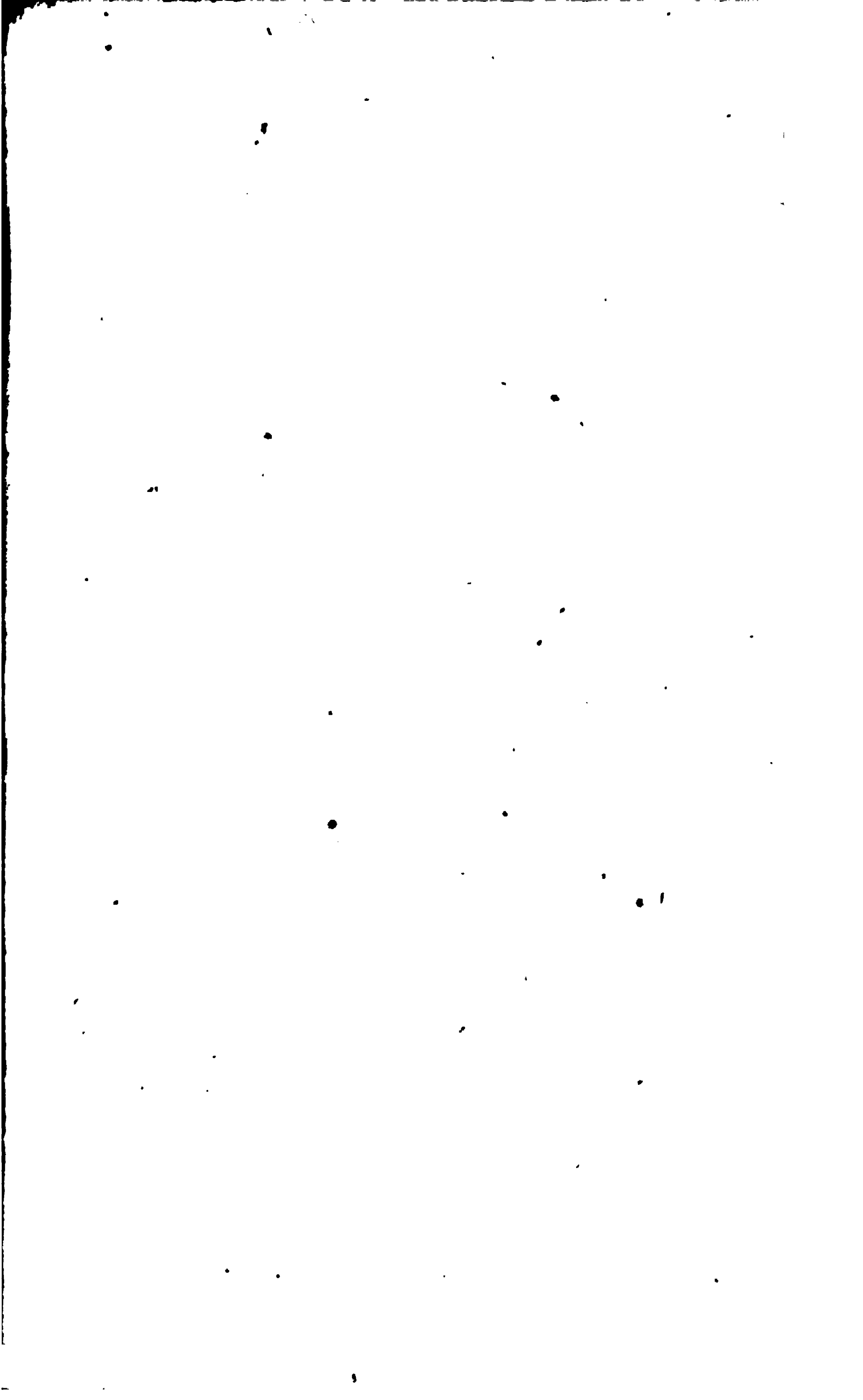
Party in-
jured may
bring ac-
tion.

V. § 3. Any person or persons injured as aforesaid, by any of the officers aforesaid, may, at his, her, or their elections, bring an action on the case against such officer or officers, and recover damages for his, her, or their injury as aforesaid, or an action of debt as above directed.

Public of-
ficers to
renew
the bonds
every
year.

VI. § 4. All clerks of the superior and county courts, clerks and masters in equity, registers, public inspectors and surveyors, shall and they are hereby required to renew their several bonds for the faithful discharge of their duties in office, with good and sufficient securities, at the several and respective courts wherein they have their appointment, which shall be held after the first day of June next ensuing, and once in every three years always thereafter; and it is further declared that all such of the said officers as shall refuse or to renew their respective bonds, at the times before tioned, and to give other and better securities when otherwise necessary, by the said courts, shall be considered having forfeited their respective offices. And the courts which have the appointment of such officer c

Otherwise,
their offi-
ces forfeit-
ed.



ers so refusing or neglecting as aforesaid, shall, and they are hereby required to proceed to the appointment of others in the place or places of him or them so refusing or neglecting.

1810. C. 18.

VII. All suits on sheriffs, superior court clerks, and clerks of the courts of pleas and quarter sessions bonds, if the right of action has already accrued, shall be commenced and prosecuted within three years after the passage of this act, and not afterwards. And all such suits, in case the right of action shall accrue hereafter, shall be commenced and prosecuted within six years after the said right of action shall have accrued, and not afterwards; saving, nevertheless, the rights of infants, feme coverts, and persons non compos mentis, so that they sue within three years after their disabilities are removed.

Suits on
clerks' and
sheriffs'
bonds.

See Abatement 4. Administrators and Executors 9, 10, 13, 34. Appeals 1, 2. Attachment 2. Bail 8, 10. Clerks of the Superior and County Courts 1, 4, 6, 7. Clerk and Master 1, 3. Collectors of Arrears 1. Comptroller 7. Constables 11. County Trustee 1. Entries 4. Entry Takers and Surveyors 2, 5. Ferries 6. Guardian and Ward 4, 6, 9, 18, 20. Ideots 1. Inspections 1. Interest 2, 3, 4. Joint and Several Contracts 1, 2, 3. Judges 8. Judgment Bonds 1. Justices 13, 16. Limitations 8. Marriages 8. Mills 8. Notes, Bonds, and Orders 4, 5. Ordinaries 2. Pilots 1, 6, 15. Printer 5. Prisoners, Prisons, and Stocks 2, 3, 9, 10. Registers 1. Secretary 2, 4. Sheriff 2, 6, 11, 12. Slaves 6, 23, 37, 66, 68. Strays 12, 13. Superior Courts 9, 14. Taxes 29. Tobacco 2, 4. Treasurer 4. Usury 1.

BOOK-DEBTS.

1756. C. 4.

I. § 2. In any action of debt or upon the case which hath been or shall be brought where the plaintiff hath declared or shall declare, upon an emisset indebitatus assumpsit quantum valebant or quantum meruit, for goods, wares, and merchandize by him sold and delivered, or for work done and performed, shall file his account with his declaration; and upon the trial of the issue or executing a writ of enquiry of damages in such action, shall declare upon his corporal oath or solemn affirmation (as the case may be) that the matter in dispute is a book account, and that he hath no means to prove the delivery of such articles as he shall then propose to prove by his own oath, or any of them, but by his books; and in that case, such book shall and may be given in evidence, if he shall make out by his own oath or affirmation that such book doth contain a true account of all the dealings, or the last set-

Proved
by the
oath of the
party.

When

BOOK DEBTS.

tlement of accounts between them; and that all the articles therein contained, and by him so proved were bona fide delivered, and that he hath given to the defendant all just credits; and such book and oath or affirmation shall be admitted and received as good evidence in any court of law for the several articles so proved to be delivered within two years before the said action brought, but not for any article of a longer standing; and where the person who delivered such goods, wares, or merchandize, or performed such work or labour, shall die, his executors or administrators may give his book in evidence upon his or their making oath or affirmation that they verily believe the account as there charged is just and true and that there are no witnesses to his or their knowledge capable of proving the delivery of the several articles, and he shall propose to prove by the said book and oath or affirmation, and that he found the book so stated and doth not know of any other or further credit to be given than what is there mentioned; and such book and oath or affirmation shall be admitted and received as evidence for any articles delivered within the time aforesaid.

II. § 3. A copy from the book of accounts proved in manner herein before directed, shall and may be given in evidence in any such action as aforesaid, and shall be as available as if such book had been produced, unless the defendant or his attorney shall give notice to the plaintiff or his attorney at the joining of the issue, that he will require the book to be produced at trial; and in that case no such copy shall be admitted or received as evidence.

III. § 4. The defendant shall be at liberty to controvert the plaintiff's evidence, and oppose the same by other legal evidence; and where the defendant shall be an executor or administrator, his testator's or intestate's book shall and may be given in evidence against the plaintiff's book, where the plaintiff is an executor or administrator for such articles as shall be proved in manner aforesaid.

IV. § 5. No book of accounts, although the same may be proved by witness or witnesses, shall be admitted or received as evidence in any action for goods, wares, or merchandizes delivered, or for work done above five years before the said action brought, except in cases of person being out of the government, or where the account shall be settled and signed by the parties.

V. § 6. No plaintiff shall be at liberty to prove by his book, and oath or affirmation as aforesaid, in the trial

It is not of its experience within the five years
Gusley Sq? Dr. 225
Jack Ref 690 -

of any such action as above mentioned, any article or articles, the amount whereof shall exceed the sum of thirty pounds proclamation money.

1796. C. 23.

VI. § 1. In all trials at law, where the cause of action may be a book account, and to which executors or administrators may be either plaintiff or defendant, and two years from the delivery of the articles have not elapsed previous to the death of the deceased: in that case, such executor or administrator on proving that he found the account so stated on the books of the deceased, and that he believes the same to be just, shall be at liberty to give such account in evidence, either where he is plaintiff in the suit, or where such account may be pleaded as a set-off against the demand of the plaintiff, although more than two years may have elapsed previous to the bringing such action, provided suit is brought thereon or set-off pleaded within one year after the death of the deceased, or administration granted.

When exceeding 50l. not to be so proved.

If two years elapse before death of deceased, what to be done.

See Time 1, 2. Limitations.

BOUNDARIES OF LANDS.

See Views. Processioners

BRIDGES.

1784. Sess. II. C. 14.

I. § 5. Where a bridge shall be necessary over any place where the overseer, with his assistants, cannot conveniently make it, the court of that county wherein such place shall be, is hereby empowered and required to contract and agree for the building, keeping, and repairing thereof, and to levy the charge on their county; and where bridges shall be necessary over any creek or river which divides one county from another, the court of each county shall join in the agreement for building, keeping, and repairing the same, and the charges thereof shall be defrayed by both counties, in proportion to the number of taxables in each.

County court to contract for building.

II. § 6. All and every contract, agreement, and order by the justices of the court of any of the counties aforesaid, entered into or made for or concerning the building, keeping, or repairing bridges, in such manner as to them shall seem most proper, shall be good against them and their successors.

III. § 7. The justices of the courts through whose counties run large water courses or creeks, which, from

Toll bridges.

BURIALS.

the rapidity of the water and width of the stream, may be too burthensome to build bridges and keep them in repair by a tax on the inhabitants, it shall and may be lawful for the majority of the justices of such county where it may be necessary, to contract with builders to build toll bridges or extensive causeways; for each of which each county is hereby authorised and required to lay the toll to be paid on all persons, horses, carriages, and cattle passing over the same; the revenue arising from which, for such a number of years as the said courts may agree upon, to be granted unto the builders of the said bridges, their heirs, or successors; for the building thereof, which bridges being built under the direction of the said courts, and the revenue arising from the toll thereof, so granted the said builder or builders, his or their heirs or successors, shall keep it in constant repair, at his or their sole expense, in default of which, on conviction, they are hereby declared to forfeit all right and title to the toll allowed by the court.

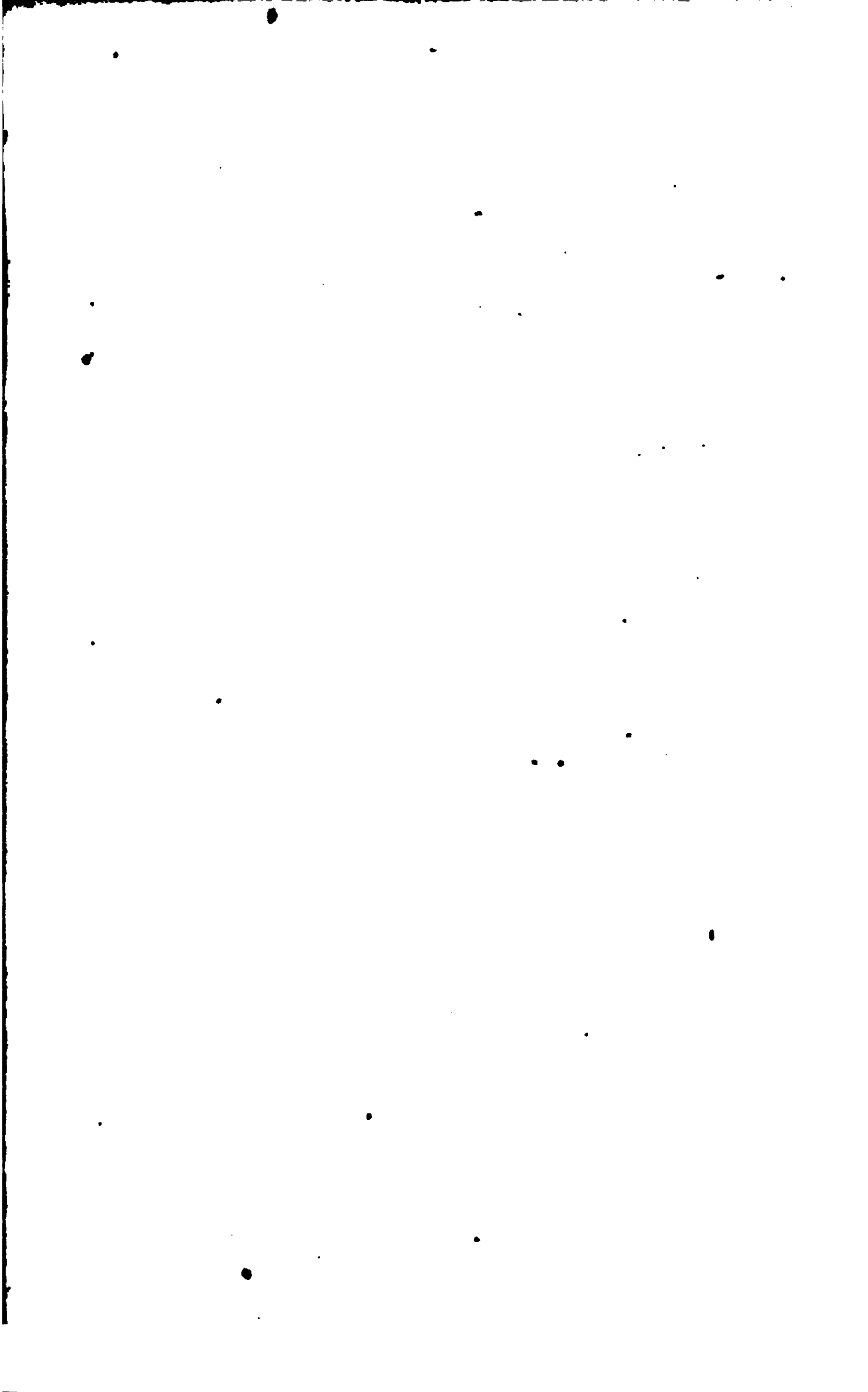
See Overseers of Roads 7. Roads. Ferries.

BURIALS.

1715. C. 47.

I. § 1. Every planter, owner, attorney, or overseer of every settled plantation in this government, or that hereafter shall be settled, shall set apart a burial place and fence the same, for the interring all such Christian persons, whether bond or free, that shall die on their plantation; and that before the interring there shall be called at least three or four of the neighbours to view the corpse, and if it appears to them that the person came to his death by any violence or unlawful means, notice thereof shall be given forthwith to the coroner of the precinct so that proceedings may be had thereon according to law, and in case any of the persons so called shall refuse to come and view, he or she so refusing shall forfeit and pay the sum of five shillings, to be levied by a warrant from the next justice of the peace, and paid to the churchwardens for the use of the poor of the said parish.

II. § 2. If any person so dying shall be buried contrary to the true intent and meaning of this act, the person or persons occasioning the same, shall forfeit and pay the sum of ten pounds, one third to the informer, one third to the lords proprietors, and the other third to the poor, to be recovered by bill, plaint, or information, in the general court of this government: unless such person



total as Receipts

making an appropriation to build a
in Capital - 1882 - C3 -

1833 - C23

1834 - C24

annuities for rebuilding the Capitol
or appropriated to

1835 C 25 - 1835 C. 23

to their lifetime signified their desire of being interred elsewhere, or unless the person concerned in such burial can make it appear that so many of the neighborhood refused to come, on notice given to them to appear and view the corpse, or that he could not, without great travel and expense, or damage to the corpse, keep it any longer.

See Registration 1.

CASE AGREED.
See Practice 5, 9, 19.

CATTLE, HORSES, AND HOGS.

1715. C. 44.

I. § 4. If any person or persons whatsoever, either inhabiting in Virginia or this government, shall, after the ratification of this act, presume to drive, lead, transport, or carry any cattle, horses, or hogs, to range upon any person's land, shall forfeit and pay the sum of ten pounds; and that no person or persons whatsoever inhabiting in this government, shall give leave to any person or persons, either inhabitants or foreigners, to turn loose, drive, or put on his land, any horses, cattle, or hogs, under the like penalty of ten pounds.

Not to be ranged by Virginians on the land of persons here.

II. § 5. No foreigner whatsoever, either by consent or permission of any other person or persons inhabiting in this government, or otherwise, shall presume or offer to drive, lead, or bring into this government, any stock of cattle, horses, or hogs, with intention to winter them here, or to destroy the herbage or mast, under the penalty of twenty pounds; and it is hereby meant and intended, and so shall be understood and taken, that no person shall be deemed an inhabitant that holds lands by entry, survey, or patent, but such as actually and constantly reside on such lands, or keep the same always tenanted, cultivated, and improved.

Foreigners not to be permitted to range stock here.

III. § 6. The ranger of each precinct or division where such offence shall be committed, or on his default the keeper of the toll book is hereby appointed to make distress of such cattle, horses, or hogs, of any person or persons offending, the one half of which fine or forfeiture shall be to the ranger or keeper of the toll book, whichever shall make the distress, and the other half to the church warden and vestry, for the use of the parish where the offence shall be committed.

Ranger to distrain.

a See penalties.

IV. § 7. All fines and forfeitures in this act men-

CATTLE, HORSES, AND HOGS.

med, and not expressly mentioned to whom they shall be paid and how to be recovered, shall be one half to the church wardens and vestry, for the use of the parish where the offence shall be committed, and the other half to him or them that will sue for the same in any court of record in this government, by bill, plaint, or information, wherein no essoin, protection, wager of law or injunction, shall be allowed or admitted of.

1723. C. 11.

V. § 1. No person being an inhabitant of this government, and not having a freehold of fifty acres of land, or assessed of or occupying lands or tenements, shall keep, as owner, a stone horse or horses, or unspayed mare or mares, or any more than one gelding or spayed mare to run at large.

VI. § 2. If any person not qualified as aforesaid, shall keep any horse or mare running at large, except one gelding and one spayed mare as aforesaid, it shall be lawful for any person to take up the same, and he is hereby obliged and directed to give notice thereof in writing to the owner within three days after such taking up, which owner shall have liberty to appear at the next succeeding court of the county wherein he dwelleth, and if he can prove to the satisfaction of the said court, that he is qualified according to the meaning of this act to keep such horse or mare so taken up, he shall have the same restored: but if he shall fail in his proof aforesaid, he shall pay to the person taking up, twenty shillings for every horse or mare so taken up; and if he the owner of such horse or mare shall refuse to pay the aforesaid sum of twenty shillings, that then it shall and may be lawful for the taker up of such horse or mare to sell the same at public vendue to the highest bidder, and to take the half of the money arising by such sale to take to himself, and the other half he shall deliver to the owner of such horse or mare.

VII. § 3. Where the information of the taking up of such horses or unspayed mares as aforesaid shall happen to be made to the owner or owners, within less than ten days before the time of the sitting of the court of the precinct where such owner resides, in such case he shall have liberty to appear at the next succeeding court after such court, to prove himself a freeholder, or possessed of or occupying lands or tenements.

VIII. § 4. No person or persons whatsoever, inhabitants of this government, shall suffer or let go at large

any stone horse or stone horses of two years old, unless ^{as not to} such horse or horses shall be at least thirteen hands in ^{run at} height, upon penalty of forfeiting such horse or horses, ^{large.} or the sum of three pounds to the taker up of every such stone horse, provided the same be found running at large and not within the confines of any fence, water marsh, or swamp.

IX. § 5. The taker up of such stone horse, shall, ^{Taker} within ten days after the taking up thereof, carry the ^{up how to} same horse, and make oath before some justice of the ^{proceed:} peace of his taking up the same: which proof being made, the justice shall cause such stone horse to be measured, and upon finding him not full thirteen hands high at two years old as aforesaid, the justice shall give a certificate from under his hand, certifying the same, and thereupon the taker up of such horse or horses so doing, shall keep the same until the owner shall redeem such horse or horses by paying the sum of three pounds as aforesaid to such taker up.

X. § 6. Such taker up shall set up advertisements, ^{To ad-} describing the said horse or horses, with his or their ^{vertise-} colour and brand, at the precinct courthouse door where such owner shall live or reside; and if the owner of such horse or horses shall within ten days after such notice given, tender to the taker up thereof by paying the sum of three pounds or giving security for the payment thereof, that then and in such case such owner shall recover and redeem such horse or horses, otherwise the taker up thereof is hereby entitled to the right and property of such horse or horses.

1729. C. 5.

XI. § 2. By the above act of 1715, there is no method appointed for disposing of such distress or proceedings therein, therefore when such distress is made, or which may hereafter be made by the owner of the land as well as the officers aforesaid, the stock so distressed shall be kept four days unless sooner redeemed ^{Distress,} or replevied by the owner, who, on paying the penalty ^{how to} and reasonable charges, shall have them at any time with- ^{proceed} in four days after the seizure, otherwise after the expi- ^{with} ration of the said four days, they shall be appraised by three indifferent freeholders, to be appointed and sworn by some magistrate, and the property shall be immediately vested in the person or persons seizing the same, he or they returning the said appraisement to the clerk of the precinct court, with an exact account of the marks

HORSES, CATTLE, AND HOGS.

or brands of such horses, cattle, or hogs, which shall be set up at the courthouse the next court; and any person proving the right to such cattle, horses, or hogs, at any of the four next courts in the said precincts, after such return of that appraisement, having given the distrainer notice, shall have an order or judgment of the said court for the overplus, according to the appraisement, the penalty, and charges deducted.

XII. § 3. The penalty of ten pounds in the said act of 1715, c. 44, may be recovered by distress in like manner, provided that no guardian or executor shall be excluded by the said act from bringing any stock under their care on their land.

XIII. § 4. The stock of any inhabitant of another government, being found on peoples' lands in this government, contrary to 1715, c. 45, shall be deemed to be driven thither by the owners, unless it can be proven that the stock strayed by some unavoidable accident and were pursued and have not ranged above four days, provided such distress be made four miles to the southward of the line between this government and Virginia.

XIV. § 5. No person within this government shall presume to hunt, drive, or kill any stock, deer, or game on any person's land within this government, except neighbours whose lands are very near adjacent, without leave first had and obtained from the owner of the said land whereon he or they shall be found ranging or hunting contrary to this act, under the penalty of five pounds for each and every time he or they shall be found ranging the one half to the owner of the land the other half to the informer; to be recovered by a warrant from two justices whereof one to be of the quorum, which said justices are hereby empowered finally to hear and determine the same.

1741. C. 8.

XV. § 2. If any free person or persons shall steal any neat cattle or hog, or shall alter or deface the mark or brand of any other person or persons' horse, neat cattle or hog, such person or persons being thereof lawfully convicted, shall, for every neat cattle or hog he or they shall steal, or for every horse, mare, colt, neat cattle, or hog whose mark or brand he or they shall alter or deface, over and above the value of such neat cattle or hog so stolen or for every horse, mare, or colt, neat cattle or hog, whose mark or brand he or they shall alter or deface, forfeit and pay the sum of ten pounds proclamation money, to be recovered by action of debt in any court of record within this province (wherein no essoin, injunction, protection

or wager of law, shall be allowed or admitted of) by the owner of such horse, mare, colt, neat cattle, or hog, that shall be so stolen, or the mark or marks, brand or brands, so altered or defaced; provided he prosecute for the same within six months after the discovery of the fact committed; and after that time, any person may, as well as the owner, sue for and recover the same, provided such prosecution is commenced within one year after discovery of the fact committed; and the offender shall over and above the said fine, receive forty lashes on his bare back, well laid on; and for the second offence shall pay the fine above mentioned, and stand in the pillory two hours, and be branded on the left hand, with a red hot iron, with the letter 'T'. And if any person or persons shall misbrand or mismark any unmarked or unbranded horse, mare, or colt, neat cattle or hog, not properly his or their own, he or they shall forfeit and pay the sum of ten pounds proclamation money, over and above the value thereof, for every such horse, mare, colt, neat cattle, or hog, so mismarked or misbranded, to be recovered as aforesaid.

XVI. § 3. If any person or persons shall see any other person or persons committing any of the crimes aforesaid, and shall not discover the same in ten days to some magistrate, then and in such case such person or persons for not discovering the said crime, shall forfeit the sum of five pounds proclamation money for every time he shall see the said crime or crimes or any of them committed; to be recovered by any person or persons who will sue for the same by action of debt in any court of record in this province, wherein no essoin, protection, injunction, or wager of law shall be allowed or admitted of.

XVII. § 4. It shall be sufficient evidence to convict any person who has seen any of the aforesaid crimes committed, if it be proved that he has told any other person that he did see the said crimes, or any of them, committed.

XVIII. § 5. If any person shall hereafter kill any one or more neat cattle or hogs in the woods, he shall within two days show the head and ears of such hog or hogs, and the hide with the ears on of such neat beast or cattle, to the next magistrate, or to two substantial freeholders, under penalty of five pounds proclamation money; to be recovered by any person who will sue for the same, by action of debt, bill, plaint, or information, in any

court of record in this province, wherein no essoin, protection, injunction, or wager of law shall be allowed.

Ear marks
and brands
to be re-
corded.

XIX. § 6. Every person in this province, who hath any horses, cattle, or hogs, shall have an ear mark and brand, different from the ear mark and brand of all other persons; which ear mark and brand he shall record with the clerk of the county where his horses, cattle, and hogs are, if not already recorded; and that he shall brand all horses with the said brand, from eighteen months old and upwards, and ear mark all his hogs from six months old and upwards with the said ear mark, and ear mark or brand all his cattle from twelve months old and upwards, with the said ear mark or brand. And if any dispute shall arise about any ear mark or brand, the same shall be decided by the book of the clerk of the county court where such cattle, horses, or hogs are.

Cattle
bought or
obtained
&c. to be
branded.

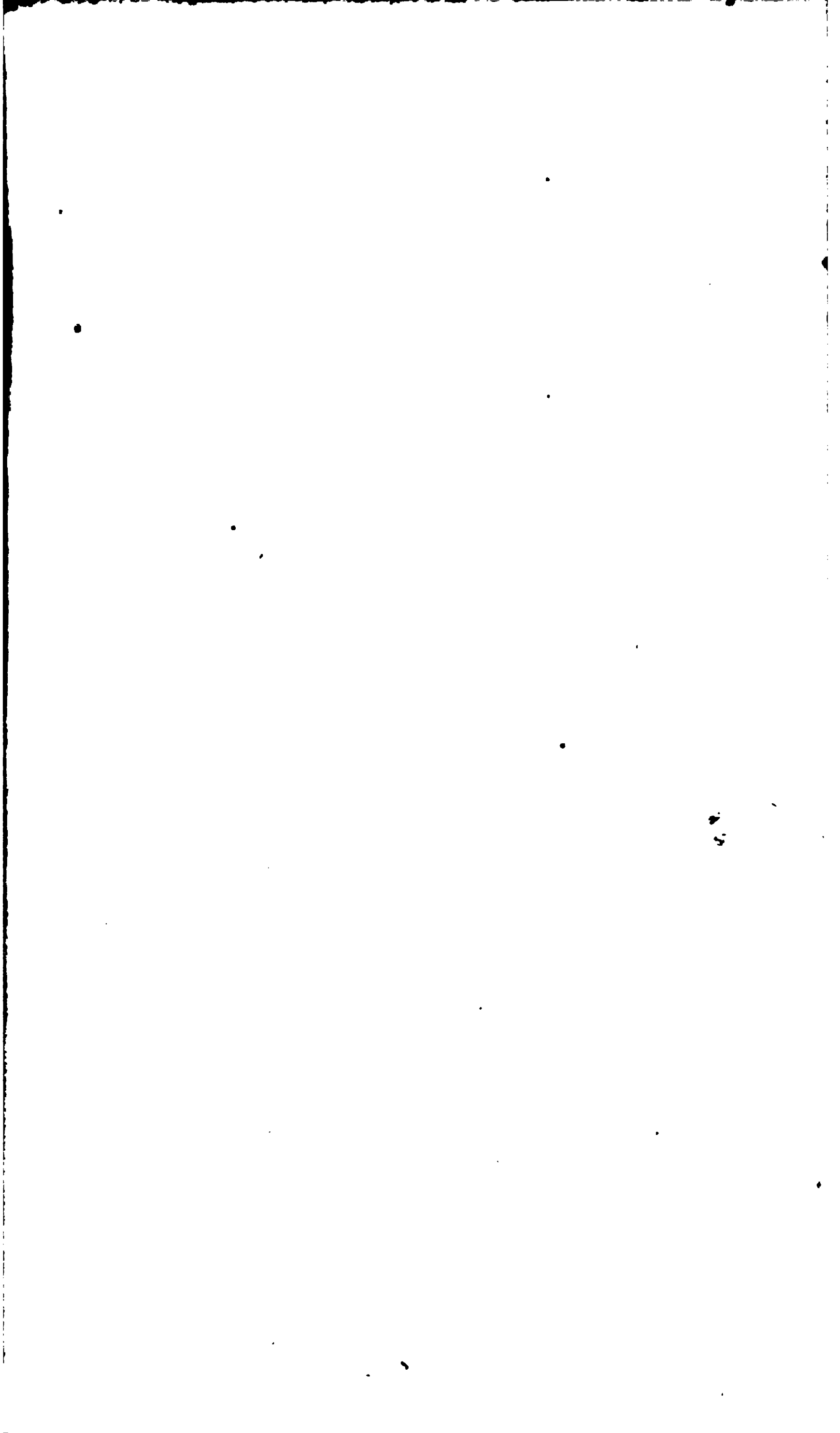
XX. § 7. When any person shall buy any neat cattle from another, or come to the same by gift, will, or any other lawful means, that then and in such case, the person who has gained the same by any of the ways aforesaid, shall, within eight months, brand the aforesaid neat cattle with his own proper brand, in the presence of two credible witnesses, a certificate of which shall be signed by the said witnesses.

Clerk to
read this
act.

XXI. § 8. This act shall be publicly read by the clerk of every county court in this province, at least twice in every year, viz. at the first court after Easter, and the first court after August, in the morning on the second day of the court in open court, under the penalty of twenty shillings proclamation money; to be recovered by any person, by a warrant under the hands and seals of any two justices of the peace of the county to the use of the informer.

Strays to
be adver-
tised.

XXII. § 9. If any strange cattle shall go into the cowpen of any person in this province, the owner of the cowpen, if he resides there, or the overseer, or manager, where the owner does not reside, shall be obliged to give public notice thereof by affixing a note of the flesh marks and ear mark and brand of all such strange cattle as shall be at his pen, at the church doors of the parish where the said cowpen is; or where there is no church, at the courthouse door, in one month after such cattle shall come to his pen, under the penalty of twelve shillings proclamation money, for every beast that he shall neglect to give such notice of; to be recovered in the same manner and to the same use, as the fine last mentioned.



XXIII. § 10. If any negro, indian, or mulatto slave ^{Slave.} shall kill any horse, cattle, or hog, belonging to any per-^{kill any hor-}son whatever, without the consent of the owner or owners ^{ses, cattle,} thereof, or shall steal, misbrand, or mismark any horse, ^{or hogs,} cattle, or hog, such slave or slaves shall for the first of-^{the penalty}fence suffer both his ears to be cut off and be publicly whipped, at the discretion of the justice and freeholders before whom he or she shall be tried; and for the second offence, shall suffer death; and the trial and conviction of ^{a See} the said slave or slaves, shall be in such manner as is pre-^{slaves.}scribed by act 1741, c. 24.^a

1748. C. 3.

XXIV. § 8. Persons driving stock to range, or stock ^{Ranging} actually ranging on the Indian lands, shall and are hereby ^{stock on} declared to be liable and subject to the like penalties and ^{the Indian} forfeitures, and may be proceeded against in the same ^{lands,} manner and subject to the same recoveries as by the law ^{same pe-} of this province stock driven and ranging upon any white ^{nalties.} peoples land are liable and subject to: And the said Indians shall and may enjoy the benefit of the laws in that case made and provided, in the same manner as the white people do or can.

1766. C. 14.

XXV. § 2. It shall not be lawful for any person who ^{Foreigners} is not an inhabitant of this province, to fix any cowpen or ^{not to fix} settle or range any stock or number of cattle in this pro- ^{c -wpens or} vince nor shall any inhabitant, on any account whatever, ^{range} take charge of or receive under his or her custody or care, ^{stock here.} in order to range or raise stock from any number of cattle belonging to an inhabitant of any other province, or wherein a resident of any other province hath any share or interest, unless such owner or keeper shall be legally possessed in his or her own right of a sufficient quantity of land for feeding the said cattle on, allowing one hundred acres of land for every ten head of cattle; and that the owner or keeper of such cattle shall record in the inferior court of the county where he or she intends to range cattle, the number of acres he or she is legally possessed of, and whether it is by patent, will, deed, or otherwise, with the date of such patent, will, deed, or other instrument: and on any trial for the breach of this law such record shall be deemed good evidence against the owner or keeper of ^{None but} cattle as to the number of acres such person possesses; ^{owners of,} and if any persons contrary to this act, shall presume to ^{lands to} range or keep a larger number of such cattle than ten ^{keep stock} head to every hundred acres of land, he, she, or they shall ^{of foreign} be liable to the same penalties as are prescribed by act 1741, c. 24.^a

be legally possessed of as aforesaid, and so in proportion, all the cattle exceeding that proportion shall be forfeited and sold by the sheriff of the county wherein the said cattle were ranged or kept, on legal proof made to the inferior court of the same county by any freeholder thereof; the said freeholder giving the owner or keeper of the said cattle five days' previous notice, that at the next inferior court to be held for the said county, he intends to lodge a complaint against such person for ranging or keeping a greater number of cattle than he is by law entitled to range or keep in the said county, and on proof of service of the said notice personally, or by having a copy of the same left at the place of such person's residence, the said inferior court shall without delay, proceed to hear the complaint in a summary way, without the solemnity of a jury, and determine according to evidence and the right of the matter before them: And if judgment pass for the complainant, the clerk shall forthwith issue an order to the sheriff for the sale of such cattle, agreeable to the judgment, which sheriff shall without delay, either by himself or deputy, execute the command of the said order, and return the money to the next court, one third part thereof to be paid to the complainant, one third thereof to be paid to the church wardens^a of the parish for the use of the poor (being parishioners) and the remaining third part to be paid to the former owner of the cattle, if called for within twelve months, otherwise to be applied towards the contingent charge of the county.

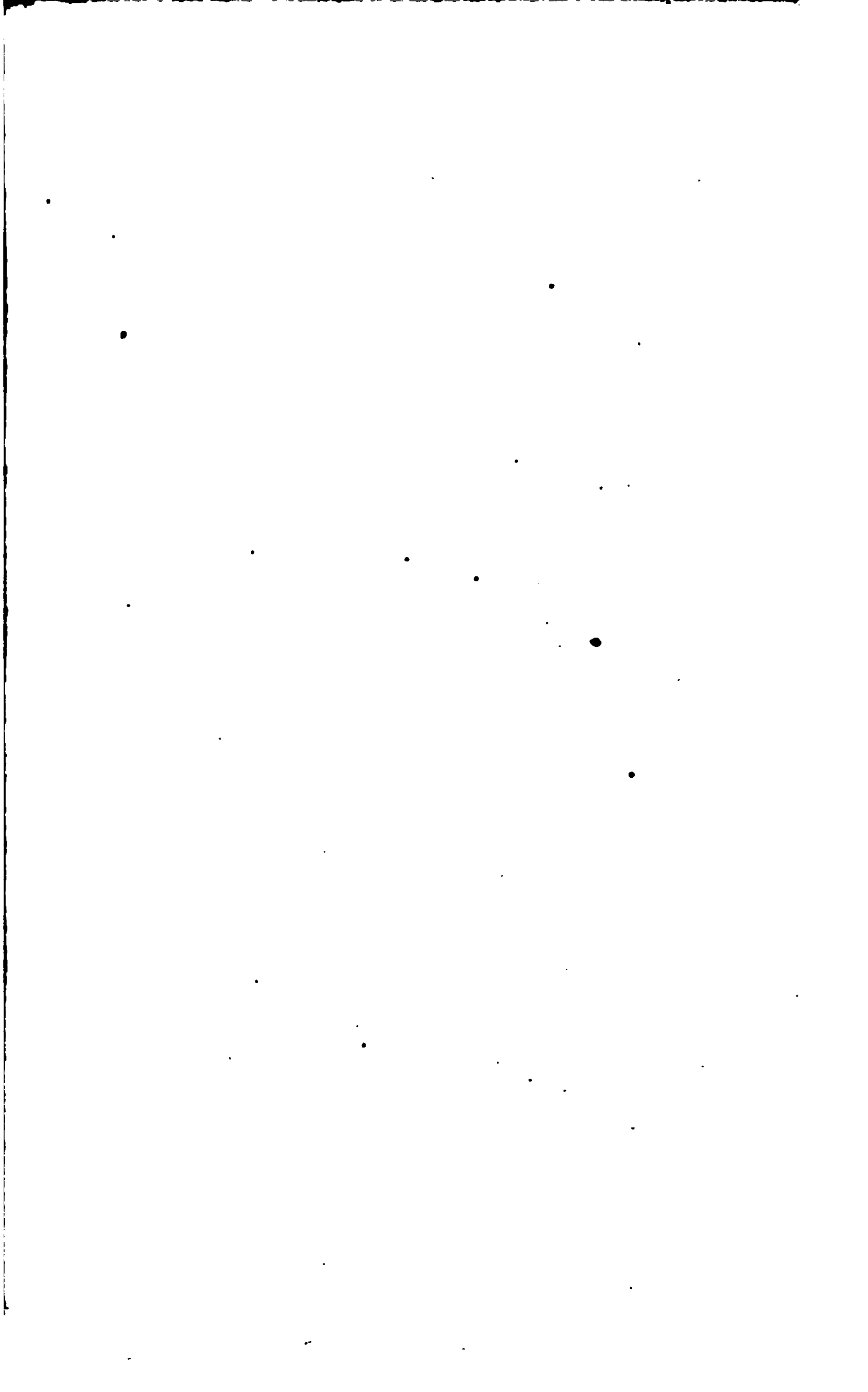
^a See
penal laws
& penalties

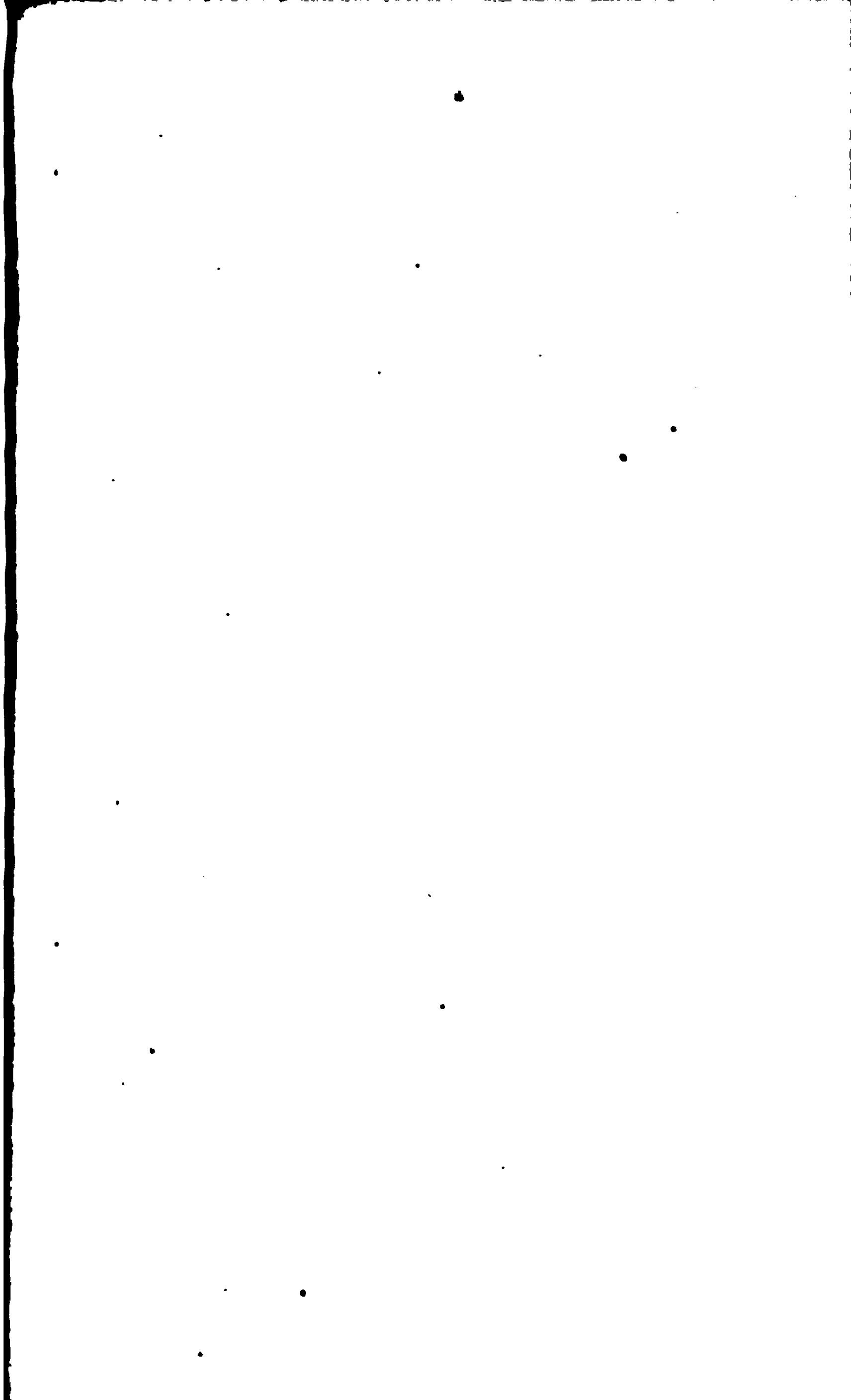
Cattle not
to be driv-
en into
this state
without a
certificate.

XXVI. § 4. No person or persons whatever shall drive any cattle into this province, without having with him or them a certificate or certificates, under the hand and seal of a justice or justices of the peace of the county where the cattle were severally and respectively purchased or brought, setting forth, that oath had been duly made by the respective owners that such cattle, at the time of the purchase or removal, were sound and free from any distemper or infection, and that no distemper or infection were known to be among cattle at that time within five miles from the place whence they came, and shall likewise mention the mark and brands of the said cattle.

To forfeit
40s for
driving
without a
certificate

XXVII. § 5. Every person or persons who shall drive any cattle into this province without such certificate or certificates as aforesaid, shall forfeit and pay for every steer, bull, cow, calf, or heifer, respectively, for which he shall have no certificate, the sum of forty shillings; to be recovered by a warrant before any justice of the peace





of the county where such cattle shall then be, and be levied on the body, goods, and chattels, of the delinquent or delinquents, for the use of the county: And every person driving cattle as aforesaid, is hereby required and directed to produce a certificate or certificates as aforesaid, at the request of any person a resident in the county wherein such cattle are; and upon his refusal so to do, on complaint thereof made to any justice of the peace in the said county, such justice is hereby empowered and directed to issue a warrant to bring such drover or drovers before him, who for every such refusal shall forfeit and pay the sum of twenty shillings; and until the same is paid, the said justice shall commit the offender to the jail of the county, or issue an execution against his goods and chattels, as such justice thinks most expedient, which forfeiture shall be applied to the use of the county, and accounted for at the next inferior court.

XXVIII. § 6. In case any cattle shall hereafter be suspected to have any distemper, any two justices of the peace and one freeholder, are hereby empowered and directed to enquire into the same, and on due proof thereof made, shall make such order therein as may best tend to prevent the infection spreading.

Who to enquire concerning suspected cattle.

1768. C. 9.

XXIX. § 2. No person whatsoever in this province, shall suffer or let go at large any stone horse or stone horses, of two years old or upwards (1801, c. 30,) upon penalty of forfeiting such horse or horses, or the sum of twenty shilling, to the taker up of every such stone horse, provided the same be found running at large, not within the confines of any fence, water marsh, or swamp; any thing contained in 1723, c. 11, par. 7, 8, to the contrary notwithstanding.

Stone horses.

1795. C 10.

XXX. § 1. No person whatever shall hereafter drive any cattle into this state between the first day of April and the first day of November in every year, from either of the states of South Carolina and Georgia, under the penalty of forty shillings for each and every head of cattle brought into this state contrary to the meaning of this act, to be recovered by any jurisdiction having cognizance thereof, by any person suing for the same, one half to his own use, and the other half to the use of the state.

Cattle not to be driven into this state between April and November.

XXXI. § 2. No person shall hereafter drive any cattle from those parts of this state where the soil is sandy, and the natural production or growth of timber is the

Not to be driven from low

lands to
the high,
nor vice
versa, be-
tween 1st
April and
November

longleafed pine, into or through any of the highland parts of the state, where the soil or growth of timber is of a different kind, between the first day of April and the first day of November in every year, under the penalty of forty shillings for each and every head of cattle so driven, to be recovered and applied as before mentioned; nor shall any person hereafter within the said time drive any cattle from the highland parts of this state, into those parts where the longleafed pine is the natural growth and production, under the like penalties, to be recovered and applied as aforesaid.

Cattle not
to be driv-
en from 1
part of the
state to an-
other with-
out certifi-
cate.

XXXII. § 3. No person or persons shall hereafter drive any cattle from any part of this state through any other part thereof, without first obtaining or carrying with him or them a certificate or certificates under the hands and seals of two justices of the peace of the county where such cattle were severally and respectively purchased or collected from range, accompanied with an affidavit or affidavits of the owner or owners of said cattle, setting forth the place or places where said cattle were purchased or had ranged as aforesaid, and describing therein the nature of the soil and growth of timber in such place or places, and also that said cattle were at the time of purchase or removal, sound and free from any infectious distemper; and if any justice shall grant such certificate without an affidavit of the owner or owners as aforesaid, it shall be deemed a misdemeanor in office.

See Fences 2, 3, 5. Strays 1, 2, 8, 9. Slaves 13, 34.

CAUSEWAYS.

See Overseers of Roads 7. Roads 3. Ferries 6.

CERTIFICATES.

1781. C. 2.

To bear
interest.

I. § 6. All auditors' certificates issued in consequence of this act, or by the late district auditors, for sums not less than one pound specie, or the lawful value thereof in the currency of the state, shall bear an interest of six per cent. from the state, and be free from taxation until paid, in case such certificate shall remain unpaid until the first day of May in the year 1783, after which time all such certificates shall be payable out of the public treasury of this state, together with the interest due thereon, in specie or the true and real value of the amount of such specie in the currency of this state.

1782. C. 3

II. § 2. All depreciation of pay and subsistence due to any officer or soldier before the 18th August 1780, shall be made good to them agreeably to resolutions of Congress, and they shall be paid for all deficiency of clothing, and John Hawks, James Coor, and William Blount, esquires, are hereby appointed a board to liquidate and finally settle the same in specie.

Depreci-
ation of
pay and
subsist-
ence, and
deficiency
of clothing
allowed
for.

III. § 3. Each officer and soldier shall receive indented certificates, one or more being for twelve months' pay and subsistence, which shall be negotiable in prompt payment for any public property that may be immediately sold, and shall receive another certificate or certificates for the balance which shall be paid off by any treasurer of the state as soon as the situation of the finances will permit.

Certifi-
cates for
12 months'
pay & sub-
sistence.

IV. § 4. The balance or arrearages due to any officer or soldier who has been killed in action, or died in service since the 18th of August 1780, shall be paid to the heirs of such officer or soldier deceased, and such widows of officers and soldiers deceased, as are by resolve of the Assembly of North-Carolina entitled to half pay, shall have depreciation made good to them, and have their certificates issued accordingly.

Certifi-
cates to
heirs of
officers &c.
dying since
Aug. 18th
1780.

Widows.

1783. C. 1.

V. § 14. Any officer or soldier who is or hath been of the continental line of this state, and have demands against the same for services, shall be entitled to have and receive from the commissioners aforesaid, out of the monies emitted by virtue of this act, the one fourth part of the balance which, on a settlement with the commissioners appointed for that purpose, shall appear to be justly due and owing to such officer or soldier respectively; and the said commissioners are hereby authorised and required to grant to each of the officers and soldiers aforesaid, one or more printed certificates, under their hands, for the balance which, on a full settlement, shall be due in specie, which certificates so issued shall bear an interest of six per cent. per annum until paid, from the date thereof.

Due Bill.

Certifi-
cates for
the balance
to bear in-
terest.

1783. C. 3.

VI. § 14. Willie Jones, Benjamin M'Culloch, and Henry Montfort, esquires, are hereby appointed commissioners in the room and stead of James Coor, John Hawks, and William Blount; and in case of the death of the said Willie Jones, Benjamin M'Culloch, or Henry

Accounts
of officers

& soldiers
to 1st Jan
1782, to be
settled, &
interest
upon them
allowed.

Montfort, or refusal to act, the governor is hereby empowered to appoint one or more persons in his or their place, as the case may be, to liquidate and settle the officers' and soldiers' accounts to the first of January 1782, who are hereby empowered to allow interest on all accounts by them settled, agreeably to a resolution of this General Assembly of the 15th May 1783.

C. 17.

Comptrol-
ler to issue
certificates
to account-
ant.

VII. § 3. On every settlement by the comptroller made, where the balance shall appear to be due from the state to the accountant, the said comptroller shall certify under his hand the true state of such account and the balance so due, and shall keep a fair copy of such certificate to be laid before the General Assembly; and in virtue of such certificate the person to whom a balance may be due, shall have an equal claim against the public with those who have or shall obtain auditor's certificates.

1784. C. 15.

Due bills.
Interest to
1st of Aug.
1783.

VIII. § 5. The said Commissioners, namely, Benjamin M'Culloch, Henry Montfort and John Macon, or a majority of them, shall settle the accounts of the officers and soldiers not yet adjusted for services prior to the first January, 1782, computing interest to the 1st August, 1783, and shall pay one-fourth of the balance in money, and issue indented certificates for the remainder, dated the said 1st August, 1783.

Certifi-
cates for
the ba-
lance.

Certificate
for 3-4ths.

IX. § 6. If the sum of ten thousand pounds, hereby granted for the purpose of paying one-fourth of the demands for services prior to January 1782 should still be insufficient, the commissioners shall nevertheless proceed to settle finally all the accounts to them exhibited, and shall issue certificates for three fourths of the several balances due as in other cases, and a separate and distinct certificate, shewing what is due to each claimant in money, taking a receipt in full, in order that the state may be enabled to settle and obtain full credit with the United States; and the claimants to whom such certificates for the one fourth part of their demands due in money shall be granted, shall be entitled to have and receive the amount of such certificates in current money, out of the tax to be collected for the year 1784, to be paid as the General Assembly shall hereafter direct.

Due bill
for 1-4th.

Accounts
to be certi-
fied.

X. § 7. The said commissioners shall not in future allow or pay the account or claim of any officer or soldier to them exhibited, unless the same, if an officer's account be certified by General Sumner, or some field officer who

continued in service to the end of the war ; and if a soldier's account, by a captain or other commissioned officer, and countersigned by some field officer who continued in service to the end of the war : And it is also hereby declared, that no pay shall be allowed to any soldier who deserted, for the time which elapsed during the desertion, notwithstanding he might afterwards join the army ; but if any soldier deserted and did not join the army again, ^{Pay not allowed} such soldier shall not be entitled to any pay or land for the ^{deserters} time subsequent to the day of desertion.

1784. C. 24.

XI. § 3. Upon the commissioners appointed to settle and liquidate officers and soldiers accounts settling any account with any officer or soldier, not having money in their hands, they shall issue to such person a certificate for ^{Certificate for 3-4ths} three fourths of the sum due, agreeable to law.

1785. C. 13.

XII. § 3. The commissioners, when they have settled the remaining claims of the officers and soldiers of the continental line for services performed prior to January 1782, shall issue to the respective claimants two indented certificates, one of which shall be a certificate for the fourth part of the sum that appears to be due to him, and shall be declared by its tenor to entitle the party or his assignee to prompt payment ; the other shall be a certificate for ^{Certif. for 3-4ths} three-fourths of the sum due to the claimant, and shall be in the common form. ^{Due bill}

XIII. § 9. The public treasurer shall be and is hereby authorised to discharge and pay off all such certificates as shall be issued by the commissioners aforesaid for prompt payment, as well as those that hitherto have been issued, commonly called due-bills, for which services he shall receive a commission of one half per centum, and ^{Treasurer to pay due bills.} no more.

1786. C. 2.

XIV. § 14. The commissioners appointed by this act shall, as soon as they have examined the said books, vouchers and accounts, make return to the comptroller of this state of such accounts as shall appear on such investigation to have been justly settled, and the claimant rightfully entitled thereto ; and where a claimant may have procured a certificate or a due bill for a larger sum than he was justly and legally entitled to, the said board are hereby invested with full powers to settle the account or claim of such officer or soldier, and return the true balance that may be due in the same manner to the comp-

Comptrol-
ler to issue
certificates

Certifi-
cates of '86
void.

troller, who is hereby required to issue a certificate for the same, agreeable to the said returns, which returns shall relate to the certificate part of such pay due to such officer and soldier, and shall be delivered by the comptroller to such officer or soldier, or their agent, attorney, executors, administrators or assigns, who may be authorised to receive the same : and all the certificates issued by the said board for settling and liquidating the remainder of the accounts due officers and soldiers of the continental line of this state, under the act of 1785, C. 13, are hereby declared null and void, and shall not be received in payment of taxes or any other public demand whatever.

1790. C. 13.

Treasurer
to re-issue
certificates

XV. § 2. The public treasurer, on being so furnished as aforesaid (*with a correct list of the names of all and every the real military claimants, whose accounts were settled by the commissioners appointed for that purpose at Warrenton in 1786, either by themselves or through others, together with a true copy of the muster rolls of the continental line of this state, which were returned during the war, or at any time since, and a complete list or return of all the settlements made by the several boards of commissioners appointed to liquidate the claims of the continental line of this state for their services during the war, including the whole of that business done either at Halifax or Warrenton*) shall, on application of any person holding certificates issued by the board of commissioners at Warrenton in 1786, take up such certificate or certificates, and re-issue, in lieu thereof, to the holder or holders, other certificates of the like tenor and for the same sums, provided the agents do report so much as being due to the claimants on the principles on which the accounts of the officers and soldiers were settled at Halifax in 1783, 1784, 1785. But should the report be otherwise, he shall then issue an indented certificate as aforesaid for the amount of the sum reported, and no more.

Certifi-
cates to is-
sue to war
soldiers &
12 and 9
months'
men.

Due Bills
also.

XVI. § 4. All war soldiers and others serving less time, but more than twelve months, all twelve months and nine months men, or their representatives, who never did, by themselves or through others, settle their accounts, on making it appear by undoubted testimony, and, to the satisfaction of the public treasurer, that they are really and justly entitled to pay as aforesaid, shall receive from the treasurer a certificate and due bill for all sums due them previous to the 1st January, 1782, in the same manner and on the like principles as such were granted by the board.

the aforesaid, provided the name who is said to have done the same is in the muster rolls so provided also, that it doth not appear already been made in his name the same shall be taken up and paid

certificates issued by the committee at Warrenton in 1786, and delivered to the treasurer, agreeably to this act, on or before the rising of the General Assembly, shall be valid and shall not be barred from liquidation unless presented before next Assembly. will not consider itself bound their redemption in any manner

1. C. 3.

1, consisting of three commissioners, joint ballot of both houses of the assembly shall convene in the town of Warrenton on the first day of May next, and sit daily thereafter, for the purpose of examining the certificates issued at Warrenton in lieu thereof, and likewise for the purpose of allowing other military certificates of 1790. C. 13.

The board of commissioners, in addition to the act of 1790, C. 13. shall be authorized to examine on the principles of justice the certificates issued at Warrenton, as all due bills which shall be presented, and they shall determine and grant or grant, as the case may require, and they shall in no instance be authorized to return any new certificate or due bill unless the same shall be returned into or

the same shall be made to any person, not after such desertion rejoin the service for which he was first enlisted, interest be allowed.

Certificates and claims coming within the act of 1790, C. 13. and of this act, which are not presented for examination, shall be valid, on or before the first

day of September next, shall be, and they and every of them are hereby declared to be false and counterfeit, and shall be considered as being forever thereafter barred and wholly done away.

1791. C. 16.

Certifi-
cates to be
paid for to
purchasers
of confisca-
ted proper-
ty valued
at 4s

XXII. § 3. In all payments to be made from the state to the citizens thereof on account of confiscated property sold under the laws commonly called confiscation laws, which the purchasers have been or shall be evicted of, the value of certificates shall be and the same are hereby declared to be of the value of four shillings currency for every pound of principal and interest, and shall be paid accordingly.

Private
persons in-
debted to
the public
treasury
after
the same
rate of offi-
cers now

XXI I. § 6. The treasurer shall receive payment from all persons indebted to the state, agreeable to the rules, regulations and restrictions directed by this act in cases where the state is indebted to any citizen thereof; provided that nothing in this act contained shall be so construed as to exonerate any public officer of this state from the payment of the money or certificates by him received in consequence of the official trust reposed in him.

1794 C. 16.

Certifi-
cates to be
registered

XXIV. § 2. All persons holding certificates of the debt of North-Carolina shall, on or before the first day of December next present them at the comptroller's office, and cause them to be registered, which the comptroller is hereby directed to do, in a book to be purchased and kept for that purpose.

1797 C 25

Troops
command-
ed by Ev-
ans, comp-
troller to
settle their
accounts,

XXV. § 1. The comptroller of this state is hereby authorised and required to settle and liquidate the accounts of the officers and soldiers commanded by Maj. Thomas Evans.

Certifi-
cates.

XXVI. § 2. And on personal application of any of the officers or privates belonging to the aforesaid regiment or battalion, or the heirs of such as have died, or their guardian, legally appointed, producing sufficient proof of the service of such claimant to the satisfaction of the comptroller, who is hereby authorised to judge of the same, and the name of the person appearing on the muster-roll; and on such satisfactory proof being given, the comptroller shall issue a certificate for such sum as they may be entitled to receive agreeable to the time of service, and no more; which certificate when so obtained, shall be paid off, and taken up by the treasurer of the state, who shall be allowed in the settlement of his public account;

Charities

The trustees of Charities to deliver
C? G? the first court after 1st of
May in each year an inventory of
estate so held &
case of failure the Sol^r of the Sup^r
to file a bill -
∴ may file and bill at the request
two reputable citizens
1872-C14 -

Provided that no allowance shall be made to any deserter whatever.

XXVII. § 3. The comptroller shall enter into a book ^{Account} to be kept by him for the purpose, an exact account of all ^{to be kept} allowances by him made to any of the officers or soldiers ^{of allowan-} aforesaid, and shall file in his office such vouchers on which ^{ces.} he may make any allowance.

1799. C. 3.

XXVIII. § 1. All holders of certificates of the debt of this state shall, on or before the 1st December, 1800, present the same at the office of the treasurer, who shall register the number, date and amount, with the name of the persons to whom payable, in a book for the purpose, and he shall note on the said certificate that the same has been presented and registered.

XXIX. § 2. All certificates of the debt of this state, not presented for the purpose of registration as aforesaid within the time limited by this act shall forever thereafter be barred, and shall not be received in payment to the state, nor in any office thereof.

XXX. § 4. Nothing herein shall give credit or currency to such certificates as have by any act of this state heretofore been declared fraudulent, or refused to be received at the treasury or other offices of this state.

See Confiscation 20. Counterfeiting 4. Entries 31, 59.

CERTIORARI.

See Foreigners 1. Superior Courts 1. Taxes 21. Confiscation 19.

CHAIRMAN,

See Administrators and Executors 9, 13. Clerks 6. Ferries 6. Grants 6. Poor 24, 25. Prisoners, Prisons and Stock 9. Sheriff's 12. Slaves 11, 23, 72, 75. Taxes for County Uses 6, 7. Vice and Immorality 3, 6.

CLAIMS.

1784. C. 2.

I. § 18. The county sheriffs, or the public treasurer ^{What} shall not discharge any grant of assembly, or warrant of ^{warrants} the governor, hereafter to be issued, unless in the said ^{or grants} grant and warrant it shall particularly express the cause ^{not to be} and service for which the same issued. ^{paid.}

1787. C. 10.

II. § 4. No claim, draft or warrant from the gover- ^{Drafts or} nor, or any one else, except the certificates for the servi- ^{warrants} ces of the members of the General Assembly, and their ^{when not} clerks and waiters; and the certificates of the clerks of the ^{to be paid.}

superior courts for the salaries of the judges and attorney general, shall be paid by the treasurer, collector or other receiver of the public revenue or taxes, until such claim, draft or warrant shall have been entered in the comptroller's office and charged to the person or persons drawing the same; with the comptroller's order endorsed to the treasurer, or other receiver of the public revenue, to pay the same; and no claim, warrant or draft (except as before excepted) shall be allowed in the settlement of the account of any treasurer, collector or receiver of the public revenue or taxes, but under the foregoing rules and regulations.

1797. C. 18.

Jailor's account, how to be authenticated.

III. § 1. The jailor, when he hath a charge against the state for confining and maintaining any person committed to the prison whereof he is keeper, shall procure the certificate of the clerk of the court where such prisoner was bound to answer, shewing forth for what causes the criminal was confined, how indicted, convicted, punished and discharged, with the seal thereto; also a certificate from the sheriff of the county where such criminal was confined, stating whether or not such criminal was possessed of any visible property, either at the time when the crime was committed or afterwards; if any, how the same was disposed of, and in what manner such prisoner was discharged from jail, together with the affidavit of the said jailor, taken in open court, setting forth his claim, particularly that he knoweth of no property subject to said costs, and that he hath received no satisfaction therefor.

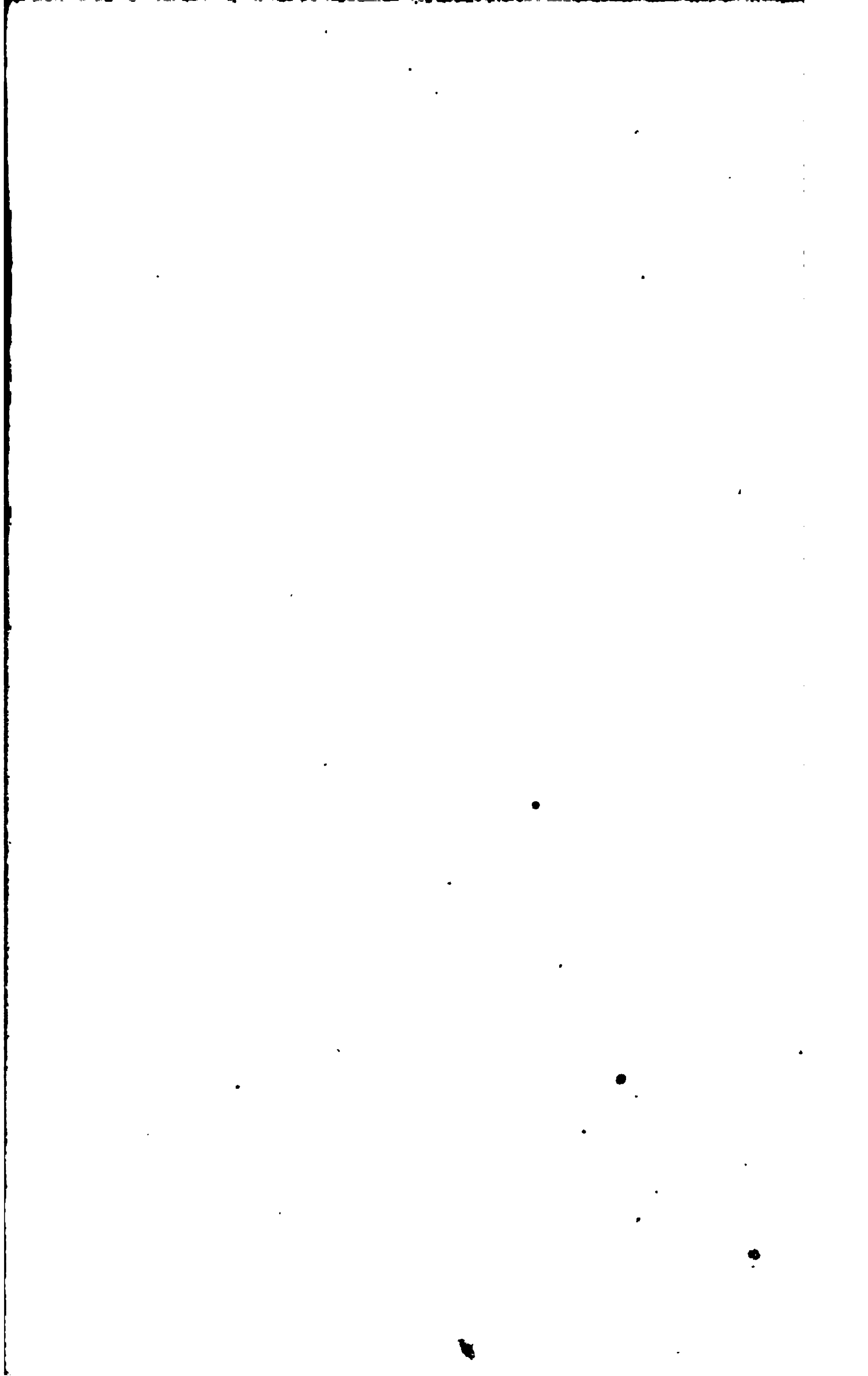
Sheriff's account, how to be authenticated.

IV. § 4. The sheriff or his deputy, when he shall have a demand against the state, for services by him performed, in taking, securing, conveying or punishing any criminal, it shall be necessary for him to state at large the several items of his account, swear to it in the court of the county whereof he is sheriff, setting forth that he has received no satisfaction for his said demand, and that there is no property to his knowledge subject to his said charges.

Coroner's claim, how to be authenticated.

V. § 5. The coroner, when he shall prefer a charge for holding an inquest, shall make oath to his claim in the court of the county whereof he is coroner, and procure the seal of the same to be thereunto annexed; and when his charge is for performing and executing the duties of a sheriff, it shall be authenticated in the same manner and under the same rules whereby sheriffs are bound.

VI. § 6. The clerk of any superior court, when he



shall charge the state, it shall be necessary for him to state and make out his claim at large, and swear to the same before the judge or judges holding his court, setting forth in his said affidavit for what cause the prisoner was indicted, how punished or discharged, that he believes there is no property subject to the costs of such prosecution, and that he hath received no satisfaction for any part of the said claim; which affidavit shall be subscribed by said clerk, and attested by the judge or judges before whom it is made.

Claim of
Superior
ct, clerk
how to be
authenticated.

VII. A witness, when it is necessary for him to prefer a claim against the state for payment, it shall be considered his duty, besides swearing to the amount of his claim, as heretofore prescribed by law, also to make oath, in some court of record, that he hath received no satisfaction therefor; and also shall procure the certificate of the clerk of the court to which he was bound or summoned, setting forth that he or she was bound or summoned to give evidence in behalf of the state, the nature of the crime, and how the criminal was disposed of.

Witness's
claim how
to be au-
thenticated.
See in-
dictment.

VIII. No claim authorised by this act shall be allowed until a fieri facias shall have first issued to the county or counties in which the criminal may be supposed to have owned property, and the sheriff's return that no property is to be found; and if the criminal is at large, without taking the oath of insolvency, it shall be the duty of the clerk to issue his writ of capias ad satisfaciendum, and the duty of the sheriff to arrest the body of the said criminal, if to be found, and him confine until he either pays off the costs of prosecution, or discharges himself by taking the oath of insolvency; neither shall any claim be allowed under this act after the expiration of three years next succeeding the trial and final decision of the prosecution out of which such claim arose; and all claims now existing shall be barred after the expiration of three years next after passing of this act.

No claim
to be al-
lowed till
f. fa. return-
ed nulla
bona.

Limitation

IX. All accounts and claims rendered and made out under and by the authority of this act, shall be in words at length, without any abbreviation, and any claim, demand or account, rendered otherwise, shall be held and deemed improper and illegal. Provided that this clause shall not be construed as to affect any claim now existing, or which may exist before the first day of June next.

Claims to
be in words
at length.

See Comptroller 6. Clerks of Superior and County Courts.

CLERKS OF THE SUPERIOR AND COUNTY COURTS.

CLERKS OF THE COUNCIL.

See Salaries 1.

CLERK AND MASTER IN EQUITY.

1787. C. 22.

I. § 3. The judges of the court of equity shall appoint some person of skill and probity to act as clerk and master in equity to each of the said courts, who shall give security in the same manner, and take the same oath before the judges, as the clerks on the law side of the court, and shall hold his office during good behavior; and the said clerk shall keep a fair and distinct record of the proceedings of the court of equity to which he may be appointed, and the bills, answers and decrees shall be regularly enrolled in a well bound book to be kept for that purpose; and further, the said master in equity is hereby fully empowered and authorised to administer the oath or affirmation to all and every person and persons, either witnesses or others, having business in the court of equity at all times, in the same manner as masters in chancery do in like cases in Great-Britain.

1813. C. 20.

II. If any clerk and master in equity within this state shall fail or neglect to pay over to the county trustee, the tax fees on suits in equity, in like manner as tax fees on suits at law, such clerk and master in equity so failing or neglecting shall forfeit and pay the same sum that the clerks of the superior courts of law upon failures of the like nature, by the laws now existing, and to be sued for and recovered in the same manner, any thing to the contrary notwithstanding.

How vacancy to be filled, see Clerks of Superior Court:

CLERK OF THE SUPERIOR AND COUNTY COURT.

1777 C. 2.

I. § 8. The judges of the *superior* courts shall appoint clerks to the several and respective courts hereby established, who shall each of them give bond with sufficient security, payable to the said judges, and their successors in office, in the sum of two thousand pounds, for the safekeeping of the records, and the faithful discharge of his duty in office; which said bond shall be lodged in the secretary's office, and may be put in suit by the party or parties injured, and shall not become void upon

near the prevalence of Officers
to provide for their cap-
ing - 1827 C9 -

for of the Supr. Ct. to be
led by the free White men
Arch - 1832. C2.

of Clerk of Ct. & Supr. Ct. to be held
by & very 43. thereafter -

office of the Clerk of the Supr. Ct.
come we could the judge of
the Circuit in which such we
occurred date appoint a new
expired term -

the joint, justice being present
in the vacancy in the
Ct. Ct. Ct. for like time -

of Ct. & Supr. Ct. Made only single
respecter courts -

elects date per bond
834 C5 -

first recovery, or if judgment be given against the plaintiff, but may from time to time be put in suit, by action of debt, until the whole penalty shall be recovered.

H. § 4. The clerks of the said superior courts, when so appointed, shall hold their offices during their good behaviour therein; but before entering upon the execution thereof, shall, before his excellency the governor, take the oath for the qualification of public officers, and also the following oath, to wit: (*which see under Oaths*), and the governor is hereby required to issue his proclamation to every county of this state, notifying to all the good people thereof the names of those persons who have qualified as clerks of the courts of their respective districts, agreeable to this law, and requiring all persons to pay obedience to all precepts issued by them by virtue thereof: And if it shall be discovered that any of the said clerks, after his appointment, shall have violated his said oath, or wittingly, willingly and corruptly, have done any thing contrary to the true intent and meaning of the said oath, such clerk shall be deemed, upon conviction, guilty of misbehaviour in office, and shall be forever afterwards incapable of holding any office, civil or military, within this state.

Continu-
ance in off-
ice

Oath

Penalty
for viola-
tion of oath

III § 66. All clerks of the county courts shall hold their offices during their good behaviour therein.

C.C. clerk's
continu-
ance in of-
fice, 5, 6, 7,
8.

IV. § 67. The clerks of the several county courts of pleas and quarter sessions, at the first court to be held in their respective counties after the expiration of this present session of the General Assembly (November 1777) shall each give bond, with sufficient security, in the sum of two thousand pounds, payable to the justices of the said courts respectively and their successors in office, for the safe keeping the records and the faithful discharge of his duty in office; which said bond shall be lodged in the secretary's office; and each of the said county court clerks shall at the same time take and subscribe the oath appointed to be taken for the qualification of public officers, and the oath of office herein before directed to be taken by clerks of the superior courts; and the offences herein before mentioned of any candidate or person in nomination for the office of clerk of any of the said county courts shall incur the same incapacities, and the violation of the oath of office in the particulars herein before specified, shall on conviction be attended with the same penalties, incapacities, and disabilities as are in like cases to be inflicted on clerks of the superior courts, or candidates or

Bond: -

Oath:

persons in nomination for such clerkships, for such offences and violation.

S.C. clk. to keep his office in town.
 All clks. to attend.
 Deputies.
 V. § 93. The clerks of the superior courts shall keep their offices in the respective towns where the said courts are directed to be held, and the clerks of all the several courts of law hereby established shall by themselves or their lawful deputies give due attendance at their respective offices ; and all deputies shall take the oath appointed for the qualification of public officers, and an oath of office, and in case of the death of the clerk of any court in the vacation, his deputy shall hold the office of clerk, until he or another shall be appointed agreeable to law, and shall be entitled to the fees and perquisites of the office until such appointment.

1786. C. 10.

C.C. clerk's bond.
 VI. § 5. The clerk of each and every county court within this state, shall enter into bond with sufficient securities for the due and faithful discharge of the aforesaid duties—*namely, for annually returning to the Comptroller's office attested copies of the amount of taxable property and polls subject to pay a public tax and an account of the fines, forfeitures and amercements due the state*, in the sum of one thousand pounds ; which bond shall be transmitted to the comptroller by the chairman of the court, under the penalty of one hundred pounds, to be sued for and recovered by the comptroller of the state, by action on the case in any court of record having cognizance of the same, for the use of the state, and the comptroller shall and may enter judgment on the said bond in case of failure or neglect after notice given in the manner of entering up judgment against county treasurers.

1783. C. 14.

a. i. e. for paying to the treasurer all taxes imposed by the act.
 VII. § 13. The clerk of each and every court of law and equity in this state, at the first court that shall be held after the first day of May next, or in case of any unavoidable hindrance, the next court afterwards, shall give bond with approved security, to the court whereof he is clerk, in the sum of two thousand pounds, conditioned for the due performance of the duties hereby enjoined, to which bond shall be transmitted to the treasurer, or otherwise the said clerk shall be liable and bound to pay a sum equal to treble the tax imposed by this act, (*which see under taxes*).

1794. C. 23.

VIII. § 1. From and after the passing of this act, when any vacancy shall happen in the office of clerk of

the county, a majority of the justices of the court of pleas and quarter sessions of the county where such vacancy shall be, shall appoint a person of skill and probity to fill such vacancy, and all clerks of the said courts shall hold their offices during good behaviour.

Majority necessary to appoint a county clerk.

1800. C. 18.

IX. § 1. From and after the ratification of this act, when any sheriff, constable or clerk of any court within this state, shall, by virtue of his office, receive any sum or sums of money for or on account of any person or persons whatsoever, and shall not on application made to him pay the same, such person or persons may give to such sheriff or constable or clerk, ten days notice in writing, to be proved in the usual manner, to appear before some justice of the peace of the county, to show cause why the justice should not grant judgment and issue execution for the same against him and his securities: And if such sheriff, constable or clerk, shall not appear before such justice, or if appearing, does not show sufficient cause to the contrary, it shall be lawful and proper for such justice to enter up and grant judgment and award execution against such delinquent for the money due.

Sheriffs, &c. how to be dealt with on failing to account.

X. § 2. Nothing contained herein shall be construed to extend to any case where the demand or sum shall exceed twenty pounds.

Not to extend to above 20l.

1800. C. 23.

XI. § 1. The said courts or pleas and quarter sessions shall have full power and authority, on their respective clerks being convicted or found guilty, in the courts aforesaid, on a bill of indictment for neglect of duty or misdemeanor in office, to remove such clerk and proceed to the election of another, provided a majority of the justices of the county are present at the election of such clerk, and the person so elected shall be subject to the same rules, regulations and restrictions as clerks are and have been, any law to the contrary notwithstanding.

Clerks of courts how they may be removed and others elected

XII. § 2. Upon the resignation or removal of any clerk from office as aforesaid, he is hereby required to transfer and deliver up to his successor in office, all records, documents and papers relative to his said office, under the penalty of five hundred pounds, to be recovered by action of debt in the name of the governor, and applied to the use of the state.

Records to be delivered up.

1801. C. 29.

XIII. § 2. From and after the passing of this act, it shall be the duty of the clerks of the several superior

CLERKS OF THE SUPERIOR AND COUNTY COURTS.

at of courts of this state, at the time of publishing the rules
s - to made by the said courts, as to the distribution of the bu-
dash- siness thereof, to publish at the same time a list of all the
causes which shall be at issue on their respective dockets.

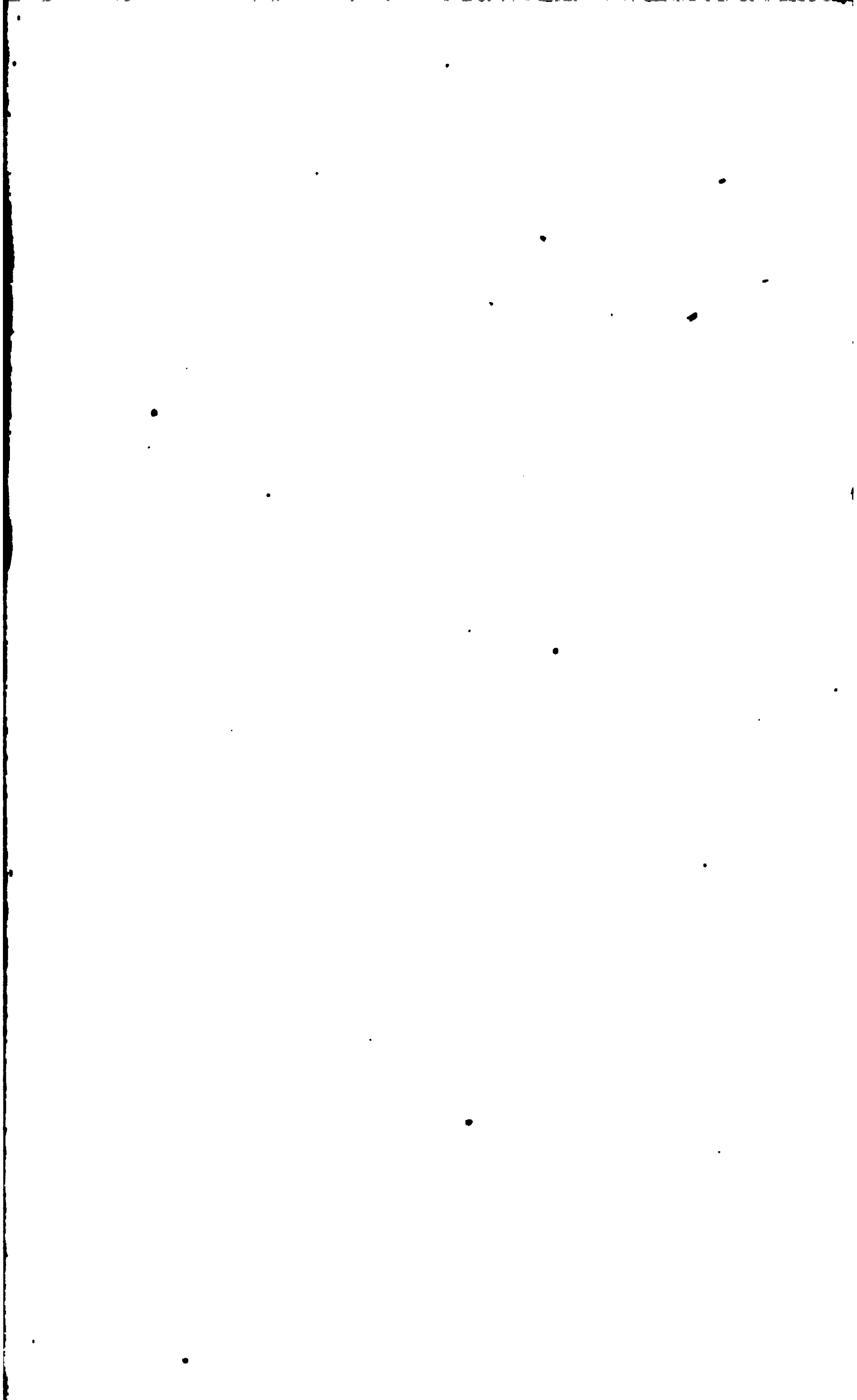
1807. C. 16.

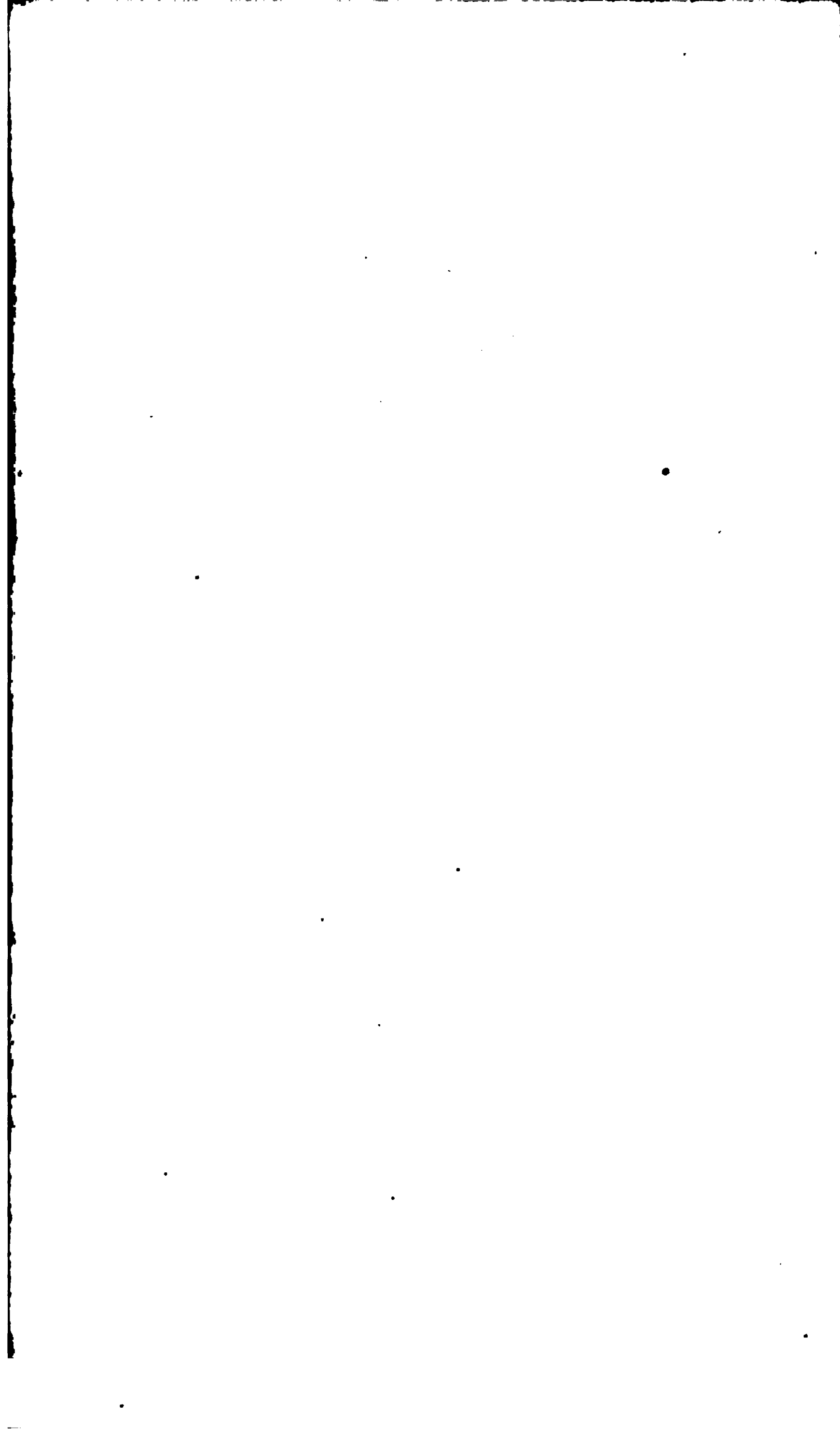
XIV. § 1. When any deed or other instrument of writing shall be offered for probate in any of the county courts in this state, it shall, and is hereby expressly declared to be the duty of the clerks of said courts to receive, with his own, the register's fees on all and every such deeds and other instruments of writing admitted to probate for registration; and shall, within twenty days after the rise of each and every county court, deliver over to the registers of their respective counties, on application, all such deeds and other instruments of writing which have been admitted to probate for registration, together with the register's fees on the same.

XV. § 2. It shall be the duty of the registers within the several counties in this state, within twenty days after the rise of each and every county court as aforesaid, to apply at the clerk's office of their respective counties, for all deeds and other instruments of writing as aforesaid admitted to probate for registration: and in case of neglect by either clerk or register in performing the duties aforesaid, the person so neglecting shall forfeit and pay the sum of five pounds for every such offence to be recovered by warrant before a justice of the peace, one half to the use of the poor of the county in which such recovery may be had, the other half to the use of any person suing for the same, and be further liable for all damages the party injured by such neglect may sustain.

XVI. § 3. It shall be the duty of the several county court clerks within this state, at the next court of pleas and quarter sessions which shall be held after the first day of May next, to deliver over to the registers of their respective counties, all deeds and other instruments of writing (if any) on which the registers fees have been paid, that have been heretofore admitted to probate for registration, under the penalty of fifty pounds, to be recovered before any jurisdiction, having cognizance thereof, to the sole use of the person suing for the same.

XVII. § 4. Hereafter, the public registers in each county in this state, for registering divisions of land, shall receive the sum of one shilling for each lot or dividend therein described, agreeably to the plat of said division, and the same fees for every copy thereof. And it shall





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KS OF THE SUPERIOR AND

§ 2. The several counts and charges of state private is now liable to pay shall not be chargeable with costs.

§ 3. All claims for costs out of criminal prosecutions, in the same manner as is now by law provided, shall be paid by the trustees in which they may be made.

§ 4. The clerks of the courts, on the first day of January in each year, shall make out and present to the trustees, which shall contain, a list of all persons who shall have paid fees, or who in the preceding year, been fined, amerced or judgment forfeited, their recognizance, and from whom the same have been collected, either in whole or in part, and the precise sum required from each, which shall be made out, sworn to and subscribed, shall be true to the trustee of the county of which he is clerk, within ten days after the rise of the court, under the penalty of one hundred pounds, to be recovered in the next term by the county trustee, for the use of the county; and under like penalty, within the period aforesaid, the county trustee a complete list or return of all persons fined, amerced, or adjudged to forfeit their recognizance, during the preceding year, and the particular sums which they have been fined or adjudged to have forfeited, as well those who have paid in full or in part, agreeably to the return before the trustees as those who have not paid any thing—wherein shall be made out and presented to the county trustee at the same time with the return above mentioned, and shall be sworn to and subscribed in like manner, and shall be returned to the trustee, as a check on the return which shall be made.

§ 5. The said clerks shall, on the first day of January in each year, pay to the county trustees, the money which they may receive or owe, in virtue of this act, and if the clerk shall fail or neglect to comply with the provisions of this act, it shall be the duty of the county trustee to report the same to the next court for his consideration, and the court may, at such clerk and his securities, or otherwise, as he may see proper, first give notice.

which come within the Former
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led.

C. 5.

r. a vacancy shall happen in the superior courts of law, master in equity, in any counting within the judicial circuit shall happen, shall appoint some By whom appointed.
d county, to fill the said vacancies of the said court shall which such vacancy shall happen when two or more judges t, if one of said judges shall chief justice, otherwise the ne suitable person, residing fill the said vacancy ; and before the judge, who shall before some justice of the the said judge for that purpose by law for the qualifications of law, and clerks and each appointment shall not be court in which such vacancy shall ride the circuit, in such vacancy shall happen of, shall appoint some suit- county, to fill said vacancy : next riding the said circuit, and sufficient security as the o appointed, either by him- the said circuit or the chief appointed, fail to enter in- esaid, the judge holding the suitable person as aforesaid

an appointment shall be made time, the judge making the Delivery of records.
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law, on the appellant's making of the court, to which turnable, that he had made a county court for a transcript have filed the same fifteen days in said superior court, the transcript filed in said court, and the case succeeding term.

See Accidents, 2. Appeals 4, 5, 7, 8.
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 Assembly 14. Mills 2. Oaths 4
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CLERK OF THE
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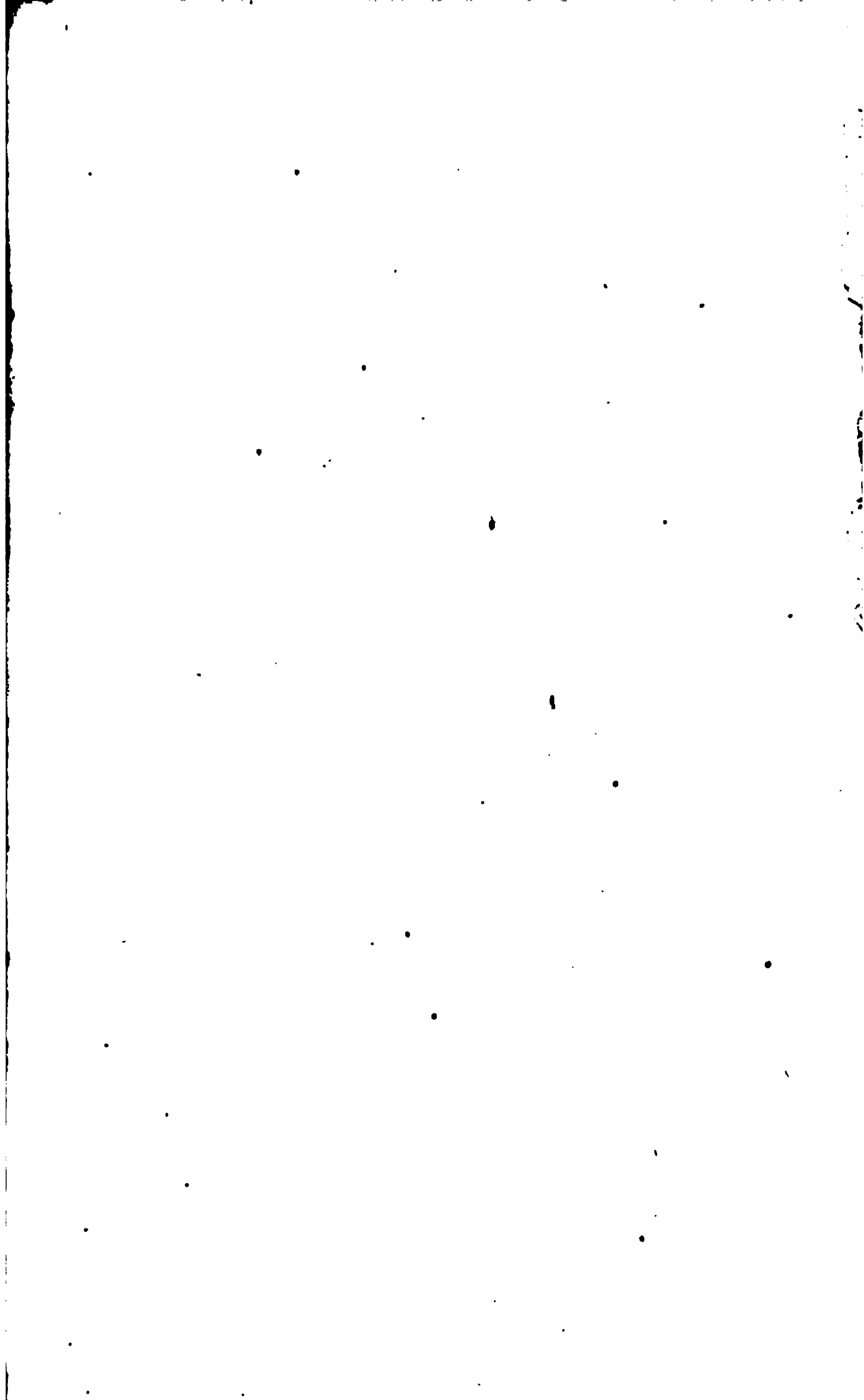
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COLLECTORS
 1793.

Appoint- I. §1. Two or more per
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 treasurer, and whose duty it
 charge of all executions issuir



which shall be hereafter obtained by the treasurer in behalf of the state, to carry or cause them to be carried to the counties within their respective ridings where the debtors or their securities reside, to see that they are properly levied, by shewing or pointing out to the sheriffs the property deemed liable to be levied on, be the same in whose possession it may, and by enquiring into and pursuing all legal means of detection and recovery in every case of suggested fraud ; and it shall also be the duty of the collectors to attend all such sales in their respective ridings, and enforce the same ; they shall likewise take charge of the amount of all monies and certificates arising from the sales and pay them into the public treasury, first endorsing a receipt on the back of the execution, expressing in words written at full length the amount of the same ; which execution shall be left with the sheriff, and shall by him be returned to the clerk of the court from whence it issued, on the first or second day of the term next following the day on which such sale shall have been made as aforesaid ; and for their services therein they shall severally be entitled to have and receive a commission of eight per centum on the amount of the cash and certificates by them paid into the treasury, which shall be deemed a compensation in full.

and pay.

To make
return on
oath, &c.Time li-
mited for
settlement
with the
treasurer,
&c.

II. § 2. Each of the collectors of arrears so appointed, shall return to and file with the public treasurer a minute and accurate written account or statement on oath, containing all their deeds and transactions in regard to the collecting arrears of monies and certificates as aforesaid ; which account or statement shall be by the treasurer laid before the General Assembly, at their annual meetings ; and each of the said collectors shall make return of the statement aforesaid, settle his account with the comptroller, (the same being checked by the returns on the execution) and finally and fully pay up and account with the treasurer for all monies and certificates received, or which ought to have been received by him in virtue of his appointment as collector, on or before the first day of November in each year, on pain of forfeiting all commissions to which he would have been entitled had he done his duty, and of being proceeded against in like manner as is by law directed in case of the failure of sheriffs ; and any collector failing to render an account or statement, settle, pay and account as aforesaid, shall thenceforward be considered as having forfeited his appointment as collector of

arrears, and he and his securities shall be proceeded against accordingly without further notice.

How ex-
ecutions
re to
be in cer-
tain cases.

III. § 3. In all cases where judgments have been obtained against delinquent sheriffs, and others in arrears to the state, and where it shall so happen that the principal and his securities do not all reside in the same county, it shall and may be lawful for the clerks of the courts, on application of the treasurer, to issue executions from time to time to any one of the counties in which either of the parties reside, or in which their property may be found, any law, custom or usage to the contrary notwithstanding.

Property
of Delin-
quents, &c.
to be levied
on for col-
lectors fees

IV. § 6. If any revenue or other public officer shall hereafter become indebted and in arrear to the state, so that judgment shall be thereupon had against him, the sheriff or other officer to whom the writ of execution shall issue in consequence of such judgment, and he is hereby required to levy on and sell so much of the property of such delinquent officer or his securities, over and above the amount of the debt due the state as shall be sufficient to pay and satisfy the commission of eight per centum, given by this act to the collectors of arrearages aforesaid, together with the costs of suit.

Sheriffs
obliged to
attend to
the r
erty, col-
lectors may
visit, and
receive fees

V. § 7. In case it shall at any time so happen, that the sheriffs of this state or any of them, shall refuse to attend the collectors when called on for that purpose, in search of goods and chattels, lands and tenements, property to be levied on, or shall fail or refuse to appoint the time of any intended sale, to advertise the same, and to attend and do his duty on the day appointed, or in case they or any of them shall fail to do and perform the several duties by law required of them, then and in that case it shall and may be lawful for the collector to demand of the sheriff so failing in duty, the execution or executions on behalf of the state committed to his or their care, and to proceed to levy, make sale and return the same, in like manner as though he were sheriff, and for his services in so doing he shall be entitled to the same fees and commissions as sheriffs.

Extortion

VI. § 8. In case of any of the collectors appointed or who may be hereafter appointed under the authority of this act, shall at any time be guilty of extortion, or other mal-practice in office, tending to the injury of any citizen, he or they so offending, and being thereof convicted, shall forfeit and pay to the party injured the sum

Letter from
to letter
of the United
States
Government

of five hundred pounds, to be recovered in any of the superior courts or county courts of pleas and quarter sessions of this state, and shall thereafter be held and deemed unworthy of the appointment of collector, or of any office or appointment of profit or trust in this state.

1802. 19.

VII. § 1. The public treasurer jointly with the comptroller, are hereby authorized and empowered to make to the person or persons who shall be necessarily employed to take charge of the public executions, such additional allowance over and above the commissions at present allowed them by law, as in their judgment they may be justly entitled to due regard being had to the labour, expence, industry and success of the person or persons so employed as aforesaid.

Additional allowance.

See University.

COMMISSIONER OF AFFIDAVITS.

See Fees, 21. Affidavits.

COMMISSIONS.

See State Constitution, sec. 36.

COMMISSIONS TO TAKE PLEA, ANSWER, &c.

See Practice.

COMMITMENT.

1795. C. 4.

I. § 13. When there is no jail in any county, it shall be as lawful for a justice of the peace or county court to commit the offender to the district jail, as it would be for him or them to commit such offender to the county jail, and the district jailor is hereby required to pay due respect to the commitment.

May be to district jail where no county jail.

See Criminals. 1. Process, 5. Runaways, 2. Slaves 6, 8, 16, 27. Vagrants, 1, 2. Vice and Immorality, 3. Weights and Measures 6. Wills, 1. Witnesses, 4.

COMPTROLLER.

1782. C. 12.

§ 3. A comptroller shall be appointed by the General Assembly, whose duty it shall be to direct the mode of stating, to check and control all public accounts in every department; and he shall enter up in books for that purpose, a clear and distinct view of the accounts of each department, ready for the inspection of the General As-

Appoint-ment and duties.

sembly and shall at any time when required by his excellency the governor and council of state, make out a brief state of the public accounts for their information.

Oaths. II. § 9. The comptroller, before entering on the duties of his appointment, shall, before some justice of the peace, take the following oath, (which see under Oaths XIV.)

In case of III. § 10. In case of the resignation or death of the comptroller, the supreme executive are hereby authorised and empowered to nominate a person to exercise the powers and perform the duties of comptroller during the recess of the General Assembly.

1783. C 17.

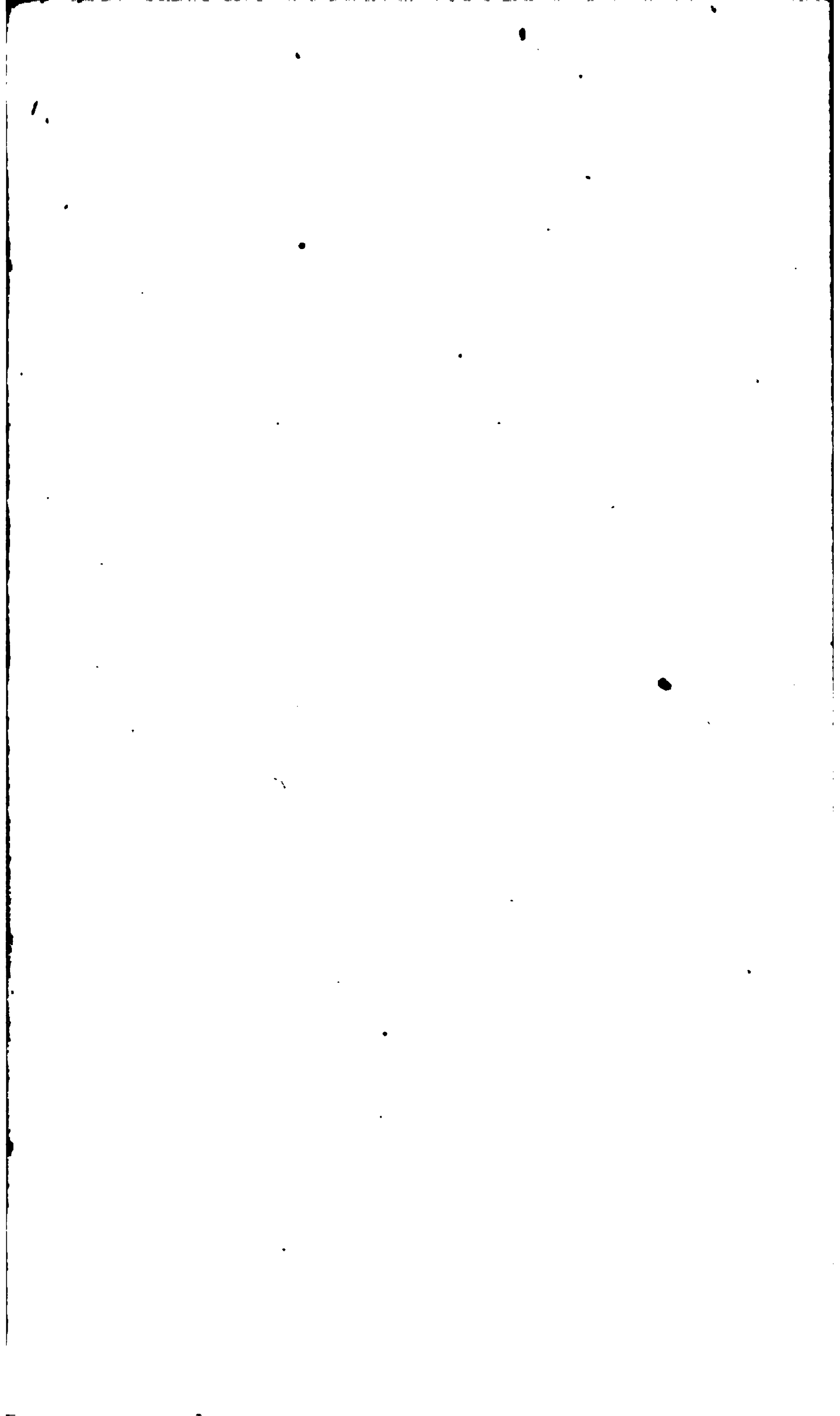
To ad- IV. § 1. The comptroller is hereby authorised and empowered to administer an oath or affirmation to accountants and witnesses in support of the justice of such accounts as may be exhibited to him for liquidation, and certify the same accordingly.

May call V. § 7. The comptroller for the time being is hereby authorised and directed to call upon and demand of the several boards of auditors, district treasurers, commissioners of specific taxes, the commissioners, superintendants, and all others concerned in the management, collection or disposal of confiscated estates, the clerks of courts who passed the accounts of the commissioners of confiscation, all persons who have acted as quarter-masters and commissaries, and all others in the staff department, as well as all other persons whatsoever who have in their hands, custody or possession, any books, accounts, vouchers, or other papers belonging to the state relative to the public accounts, to the end that he may be able to make a true and just state of such accounts. And in case any person or persons in whose hands, custody or possession, such books, accounts, vouchers, or other papers may be, shall refuse or neglect to deliver the same to the order of the said comptroller, such person or persons shall forfeit and pay for each and every such neglect or refusal the sum of one hundred pounds specie, to be recovered before any jurisdiction having cognizance thereof, by any person who shall sue for the same to his own use.

1787. C. 10.

All claims VI. § 3. All claims shall in future be exhibited to the comptroller, and all persons making or demanding the same shall take and subscribe the following oath or affirmation :

“ I, A B, do swear or affirm (as the case may be) that the claim



by me now exhibited is justly due, that it has not been rejected heretofore by any of the auditors of this state, or by the comptroller, or by any committee of the General Assembly, and neither by myself or any other person have I received satisfaction for the same or any part thereof."

Oath of claimant.

Which oath or affirmation shall be endorsed thereon or annexed thereto, and the comptroller or some Justice of peace of the county wherein he may reside, is hereby empowered to administer such oath or affirmation. And the comptroller, on receiving such claim, and certificate, shall examine whether it is covered by any resolution of the Congress, or any resolve or act of the General Assembly and reject or allow the same, according to the right of demand founded on any such resolution or act, and shall enter all such as are well founded in a book or books to be kept for that purpose, under an account to be raised between the state and said claimant, and shall file those rejected according to the county and date in his office; and further, said comptroller shall at the succeeding General Assembly lay before them a transcript of all allowances by him made, with the vouchers, that the Assembly may take order thereon.

His duty in respect of claims exhibited to him.

1792. C. 18.

VII. § 1. The person who shall at any time hereafter be appointed comptroller, before entering upon the duties of that appointment, shall give bond, with sufficient surety, payable to the Governor for the time being, for the use of the state, in the sum of ten thousand pounds, conditioned for the safe keeping of the public books of accounts and all vouchers which may come into his possession, and for the faithful performance of his duty in office.

To give bond.

VIII. § 2. It shall be the duty of the comptroller to settle and report on all public accounts of the state, and to keep regular books and statements of the same, which he shall do in manner following, that is to say, he shall report the net amount which shall annually become due and payable from the respective revenue officers to the treasurer of the state, to the end he may be informed of the same, and enforce the due payment thereof, first raising an account and debiting in his books each officer so reported, against whom he shall credit by the amount of such receipts as they or any of them shall from time to time produce from the treasurer.

To settle and report on public accounts.

IX. § 3. The treasurer shall in all payments made to him, grant two receipts of the same tenor and date, one of which receipts shall be filed in the comptroller's office,

To endorse receipts.

and the other shall be endorsed by the comptroller, and continue with the person who has made the payment, without which endorsement of the comptroller no receipt said to be given by the treasurer shall be operative.

How to
keep ac-
countswith
treasurer.

X. § 4. The comptroller shall open an account with the treasurer, in which he shall debit him with the amount of each respective receipt, which he shall have so placed as aforesaid to the credit of the accounting revenue officers, and credit him by the amount of such warrants and other cash claims as he shall produce and deliver.

And with
individu-
als.

XI. § 5. It shall also be the duty of the comptroller to raise accounts and report in like manner against individuals who may become chargeable on any of the warrants or vouchers hereafter paid him as though they were revenue officers, taking care not to blend such accounts and reports with those already made or raised, or which may be hereafter raised, and made on vouchers in the comptroller's office.

Monies
to be paid
into the
treasury by
the clerk.

See Col-
lectors.

XII. § 6. All monies becoming payable to the public in the year 1793, and in each succeeding year, which shall not be paid in due time, but shall be sued for and recovered, when received shall be paid into the treasury by the clerk of the court in which the recovery shall be had, and the receipt for such payments shall be rendered to the comptroller, charged and filed by him in manner aforesaid.

When to
strike bal-
ances.

To settle
his own ac-
countswith
General As-
sembly.

These
regula-
tions when
to com-
mence.

XIII. § 7. It shall be the duty of the comptroller, on the first day of November annually, to strike a balance against the treasurer, and all other public accountants in arrear, and report a statement of the same to the General Assembly, with whom he shall settle his own accounts for the warrants and other claims received of the public treasurer.

XIV. § 8. The aforesaid regulations shall take effect on the first day of January next, and shall apply to the taxes of 1792 and all other public dues payable in 1793, and thence forward.

Elected
annually.

XV. § 9. The comptroller shall be annually elected by the General Assembly in the same manner that the public treasurer is elected.

An offi-
cial is evi-
dence.

XVI. § 11. An official signed by the comptroller, shall be received as testimony in the different courts in this state.

1793. C. 26.

XVII. § 1. The directions of said act with respect to the mode to be observed in keeping the public accounts

of this state, shall apply to and be observed in stating and keeping all accounts whatever, the monies due or which became payable after the first day of January, 1788, the day on which the comptroller's reports are by the act of 1783 (*see Taxes*) directed to commence. The regulations of 1792 apply to all accounts.

XVIII. § 2. The comptroller, in raising accounts against individuals in arrears under this act, shall charge them with the balances for which the treasurer claimed credit in the settlement of his public accounts up to the first day of November, 1793, and which have been reported to the General Assembly, and posted up during the present session, and with such other and further sums as he shall, from time to time be enabled to produce a charge against them. Individuals how to be charged.

1814. C. 15.

XIX. § 1. It shall be the duty of the comptroller, immediately after the first day of November in every year to prepare the account of the public treasurer of this state, with the state as the same shall appear on the books of the comptroller's office for the year preceding the said first day of November, stating the balance of money in the treasury at the last settlement; the receipts into the treasury within the year, particularizing the monies and account from which the same accrued, and were received, the amount received from each respectively, and a particular statement of the disbursements from the treasury within the same period, and the money remaining in the treasury; and shall annex to said account a statement of the revenue from each subject of taxation in every county of the state—of which account and statement, the comptroller shall have printed two hundred and fifty copies, before the meeting of the General Assembly next ensuing the first day of November in every year, and deliver the same within the first week of the session of the General Assembly to the clerk of either House, subject to the disposal of the General Assembly. To have statement of treasury printed.

XX. § 2. For printing the said account and statement, the treasury shall pay a reasonable compensation on the certificate of the comptroller.

See Army Accounts 1, 2. Certificates 7, 14, 24, 25, 26, 37. Claims 3, 10. Collectors of Arrears, 2. Entries 32, 33, 35, 39, 49, 50, 52. Entry-Takers and Surveyors 7, 16. Oaths, 14. Prisoners, Prisons and Stocks, 15. Salaries, 1. Seat of Government 1, 2. Soldiers 1, 2, 5. Taxes 27, 28, 32, 34, 37, 38, 51, 52, 55, 56, 63, 64, 111. Treasurer, 8. Witnesses, 22.

CONFERENCE.

CONFERENCE.

1799. C. 4.

VII. § 1. The judges of the superior courts of law and equity within this state, shall meet together twice in each and every year at the on the tenth days of June and December shall happen on Sunday the next for the purpose of determining all questions of equity, arising and remaining undetermined.

VIII. § 2. The said judges, or any point the first meeting after the passing of this a clerk of skill and probity, who shall give sufficient security, payable to the governor for in the sum of five thousand pounds, for faithful discharge of his duties in office, keeping of all records committed to his custody shall be lodged with the secretary of state clerk, when so appointed, shall hold his office and behaviour; but before entering upon the office, shall before the said judges or eight an oath of the same tenor and effect as the the clerks of the superior courts of law.

IX. § 3. Whenever any questions or hereafter shall arise upon the circuit, before judges of the superior courts, which the judges may be unwilling to determine, and shall further consideration thereon, and a conference of other judges; or where any questions or have already arisen on the circuit, and undecided by reason of a disagreement of the circuit; in either case the clerk under the direction of the judge then sitting such question or questions shall arise or cause out a transcript of the proceedings in the such question or questions shall arise, same to the judge, before or at the expiration of a case shall be made up by the court and under the direction of the judge, or by himself, as the nature of the case may require transcript or case so made as aforesaid, to be at the meeting of the judges hereby appointed clerk.

X. § 4. The judges, at their said meeting of them, shall proceed to argue and determine

tions so as aforesaid brought before them, and shall sit for ten days at each and every meeting, unless the business shall be sooner finished; and each and every judge, at their said meeting shall give their final opinion in every case in writing, to be filed with the clerk, and by him to be entered in a book kept for the purpose.

Judge's
of the court

XI. § 5. The clerk of the said meeting of the judges, immediately after the rise of each and every sitting, shall make out a full and correct certificate of the decision of the judges ready to be delivered to the person in whose favour the decision shall be, or to any person for him, on application, or if any application should not be made, to be by said clerk transmitted to the clerk of the superior court of law and equity where the question had been depending and had arisen, and the clerk of the said superior court shall thereupon issue execution, as may be proper in the case, for the debt or damages that may have been recovered, together with the costs in the court of his district, or otherwise proceed as the decision of the judges may demand.

Clerk's
duties

XII. § 6. The said clerk shall receive a compensation for his services, a sum to be estimated by two of the judges, according to the business performed, not exceeding fifty pounds per annum on certificate of which from the judges, the treasurer shall be authorised to pay the same.

Clerk's
compensation

XIII. § 7. If no judge shall attend the day fixed on for the sitting of the court, the sheriff of the county of Wake, or any other sheriff attending, may adjourn the same from day to day for three days.

Sheriff
may adjourn
court

XIV. § 8. This act shall continue in force from its commencement only for two years, and from thence to the end of the next succeeding General Assembly.

1801. C. 12.

XV. § 1. The said meeting of the judges shall be known by the name and style of "The Court of Conference."

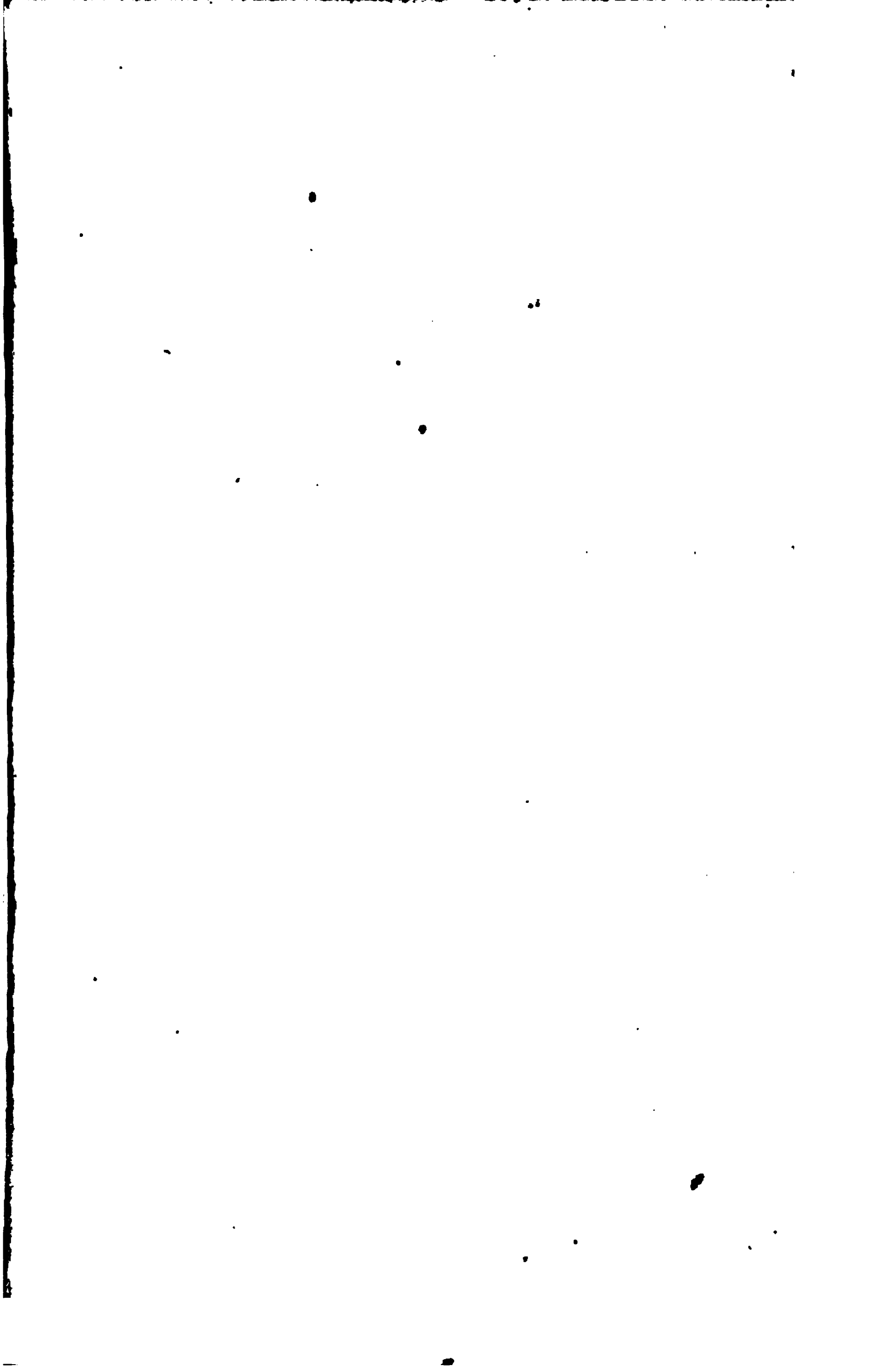
Style of
Court

XVI. § 2. The judges of the said court of conference hereafter may and shall have power to sit at each and every term of the said court, as long, not exceeding fifteen days (Sundays excepted) as the business of said court shall require.

Sittings
limited

XVII. § 4. It shall be the duty of the clerk of the said court to permit any persons to search the records of his office, and give and make out copies of the same, to any person applying, for which he shall be entitled to the

Records
to be
searched



~~deserted to depart out of this state~~) shall have liberty to sell and dispose of his or their estates, and after satisfying all just demands, to export the amount in produce (provisions and naval stores excepted) and may also nominate and appoint an attorney or attorneys to sell and dispose of his or their estates for his and their use and benefit; but in case any real estate belonging to any such person shall remain unsold for more than three months ~~and~~ after the owner thereof hath departed this state, the same shall be forfeited to and for the use of the public.

Persons ordered to depart to sell their estates, or the real estates to be forfeited.

1777. C. 17.

II. § 2. All the lands, tenements, hereditaments and moveable property within this state, and all and every right, title and interest therein, of which any person was seized or possessed, or for which any person had title on the fourth day of July 1776, who on the said day was absent from this state and every part of the United States, and who is still absent from the same, or who hath at any time during the present war attached himself to, or aided and abetted the enemies of the United States, or who has withdrawn himself from this or any of the United States after the day aforesaid, and still resides beyond the limits of the United States, shall and are hereby declared to be confiscated to the use of this state, unless such person shall at the next General Assembly which shall be held after the first day of October, in the year 1778, appear and be by the said Assembly admitted to the privilege of a citizen of this state, and restored to the possessions and property which to him once belonged within the same.

Confiscation conditionally.

III. § 3. The act shall not extend to such persons as are or have been actually employed in the service of the United States or any of them, and have not deserted to the enemy or traitorously violated their trust, as are imprisoned, of unsound mind, or under the age of twenty one years.

Savings.

IV. § 4. Nothing herein shall avoid any sales of lands, tenements, hereditaments or moveable property, by such persons bona fide made before their departure, or pursuant to act of 1st 1777, C. 3, § 6, *being the same provision as above* in 2d 1777, C. 6. § 6.

1779, C 2.

V. § 2. All the lands, tenements, hereditaments and personal property within this state of William Tryon and Josiah Martin, Esquires, Sir Nathaniel Duckenfield, Henry Eustace M'Culloch, Samuel Cornell and Edmund Fanning, Thomas M'Knight, late of Currituck: James Par-

Confiscation absolutely by name.

ker, William M'Cormach, John Dunlop, Neal Snodgrass and John Lancaster, late of Pasquotank county; James Green, mariner, and John Alexander, late of Craven; Thomas Oldham, late of Chowan, Thomas Christie, of the kingdom of Ireland; Frederick Gregg, late of New-Hanover; Andrew Miller, Alexander Telfair, Hugh Telfair, John Thompson, John Hall, late of Halifax; George Alstichael Wallace, John Wallace, William Field, John Field, of Guilford county; John M. Roberts, late of Surry; Geo. James Cotten, Walter Cunningham, late of Anson; Samuel Bryan Sappenfield, late of Rowan; Edgewcombe; Messrs. Dinwiddie, of Bute county; Robert Pafford, Brice Dobbs; Ralph M. Fields, James M'Neil, Ar. M'Coy, Neil M'Arthur, J. Collin Shaw, William Camp, Thomas Rutherford, William Messrs. Waller and Brigden, Alexander M'Austin, late of North Carolina; Robert Bell and Duncan, of Johnston county; Francis Williams, Chauncey Townsend, Doctor Buchanan, and Hastie, and Alexander Munn, 1786, C. 20. 6

within the meaning of the call and every the right, title each of the persons aforesaid the said 4th day of July, 1776, and are hereby declared absolutely forfeited to this and the hands of the commission be appointed for the purposes

By description.

status of
rivers ha-
bited con-
cated.

VI. § 14. All such land 1777, C. 3. and 1777, C. 6, disposed of for a valuable consideration, all debts, money and personal estate not yet collected and in the direction of the said acts, shall be confiscated to this state.

VII. § 17. The wife or
aforesaid who hath been, and

state shall not be debarred from her right of dower in and to her husband's lands but shall be entitled to one third thereof, for and during her natural life, to be laid off by the commissioners, in the same manner as lands in dower are by the common law, and that a proper subsistence out of the sales of said husband's estate, shall be allowed to the wife or widow aforesaid, for the maintenance of herself and such children, being minors, who are now residents of this state, as the General Assembly may direct.

Wives and children provided for.

VIII. § 18. Nothing herein shall empower the commissioners appointed by this act to take into their possession any household furniture or provisions belonging to the aged parents, wives, widows, or children of any person whose estate is confiscated.

Parents, &c.

1780. C. 4.

IX. § 2. The property of all persons who may at any time have joined, or shall hereafter join or attach themselves to the enemy, shall be comprehended within the meaning of this act as confiscated.

Confiscation by description.

1781. C. 4.

X. § 2. The estates of all such persons as have been heretofore in arms against and are now in service in defence of this state, and who shall continue therein so long as to complete the term of eighteen months actual service from the time of their entering respectively; and also the estates of all such persons, who having joined the enemy may return and serve in the army of this state agreeable to a resolve of this General Assembly, shall be suffered to be and remain in the peaceable possession of the respective families of all such persons.

Confiscation not to extend to certain persons.

1782. C. 6.

XI. § 3. In all cases whatsoever, except in cases relating to the property of the persons hereinbefore expressly named, (*being the persons named in par. V.*) the county commissioners of confiscated property, and where there are no commissioners the sheriff, and where no sheriff, the coroner of each county shall, by notice under their or his hand, require each and every person, in the county where they are commissioners, he is sheriff or coroner, in whose hands or possession any property is, which has been or may be seized as forfeited, and all other property within this state which may be deemed forfeited and confiscated by any law, though the same may not hitherto have been seized or possessed by any commissioner, sheriff or other officer, to appear at the next county court to be held for such county, and before the justices thereof show cause,

Confiscation how ascertained.

Inquiry how to be made of confiscated estates. If any they have, why such property shall not be adjudged as confiscated to the use of the state; and on failure the person or persons so notified to appear, the property in the hands of such person or persons shall be adjudged by the county court to be forfeited; but wherever a person or persons shall appear in pursuance of such notice, and dispute the right of confiscation, then and in the case the court shall direct a trial to be had at the same court, by the jury attending such court, in the same manner as trials are had in other cases; and in case of a verdict being found that the property in dispute is forfeited under the confiscation laws, then the same shall be sold in the same manner as other property to be sold under this act: Provided, that claims set up under entries or grants obtained since the declaration of independence shall not be deemed claims under this act, so as, to obstruct or delay the sale thereof except such entries or grants as have been, or may be made on the large tract of land called No. 5, and of which Arthur Dobbs, Esq. died seized.

Sales fairly made, valid XII. § 18. Nothing herein contained shall be construed to invalidate or affect any legal sales made and for consideration money bona fide paid to any of the persons enumerated in this act, pursuant to 1777, C. 6. § 6.

Estates of those attaching themselves to the enemy confiscated. XIII. § 20. Every person who has been a resident in this state, and have heretofore attached themselves in any manner whatsoever to the enemies of this or the United States, it is hereby fully and entirely expressed, that all the property of such person or persons shall be considered as having been forfeited to and for the use of this state, from the time that such person so joined the enemy as aforesaid; and that all bargains and sales, wills and other devices made so as to interfere with this act, is and are hereby declared to be null and void to all intents and purposes.

Provision for wives, &c. XIV. § 21. It shall be lawful for the several courts in this state, and they are hereby strictly required previous to any sales which may be made in virtue of this act, to set apart so much of the personal property, including all household goods of every estate liable to be sold as aforesaid as will be sufficient for the reasonable support of the wives, widows and children of any persons whose estate is or may be confiscated, and one-third of the lands, or so much thereof as will be sufficient for the support, to be laid off by the county surveyor, in the same manner as lands in dower are directed by the common

law, or may, at their discretion, assign the whole of the land and manor plantation, where the same may be of small value, and not more than sufficient for the purposes aforesaid; and the respective county courts are hereby required to make due return of all such lands and other property to the next General Assembly, for their further determination: Provided, that no such reservation of property shall be made unless for wives, widows, and children now subsisting in this state.

1785. C. 7.

XV. § 1. Persons holding or deriving titles to any real or personal estate under a sale or sales lawfully made by commissioners of forfeited estates legally appointed for such purposes, shall be deemed not liable to answer any suit or suits in law or equity which hath been or may be commenced by any person or persons so specified or described in the said confiscation acts as inimical to the states, or by any person or persons whatsoever claiming by, from, or under them or any or either of them; and the courts respectively shall and may, and they are hereby required in all such cases, upon the motion or affidavit of the defendant or other person, and by his deeds and other documents, making it appear that he holds and derives his title to the lands or chattels in question, under and by the sale of a commissioner or commissioners of forfeited estates legally appointed, to dismiss all such suits, suits, action or actions, at the proper costs and charges of the plaintiff or plaintiffs.

What persons shall not sue.

1786. C. 6.

XVI. § 1. The citizens of this state are hereby declared to possess and enjoy the right and privilege to commence, prosecute, and maintain any suit or suits in any of the courts of law or equity within this state, for any real or personal estate, sold by any of the commissioners of forfeited estates: Provided the said citizens do not hold or derive their titles by, from or under any person or persons named or described by some one of the laws commonly called confiscation laws.

What persons may sue.

XVII. § 2. In case any real estate should be deemed by a commissioner of confiscated property, to be forfeited, and should be claimed by any citizen or citizens, as not liable to confiscation, such commissioner shall not proceed to the sale thereof, but shall commence a suit for the recovery of such estate, in the same manner as by law directed for the recovery of personal property withheld from him: and such suit shall be instituted in his name

Real estates deemed confiscated to be sued for.

as commissioner of his own particular district for and behalf of the state, and the same proceedings shall be had thereon as in other suits of the like nature.

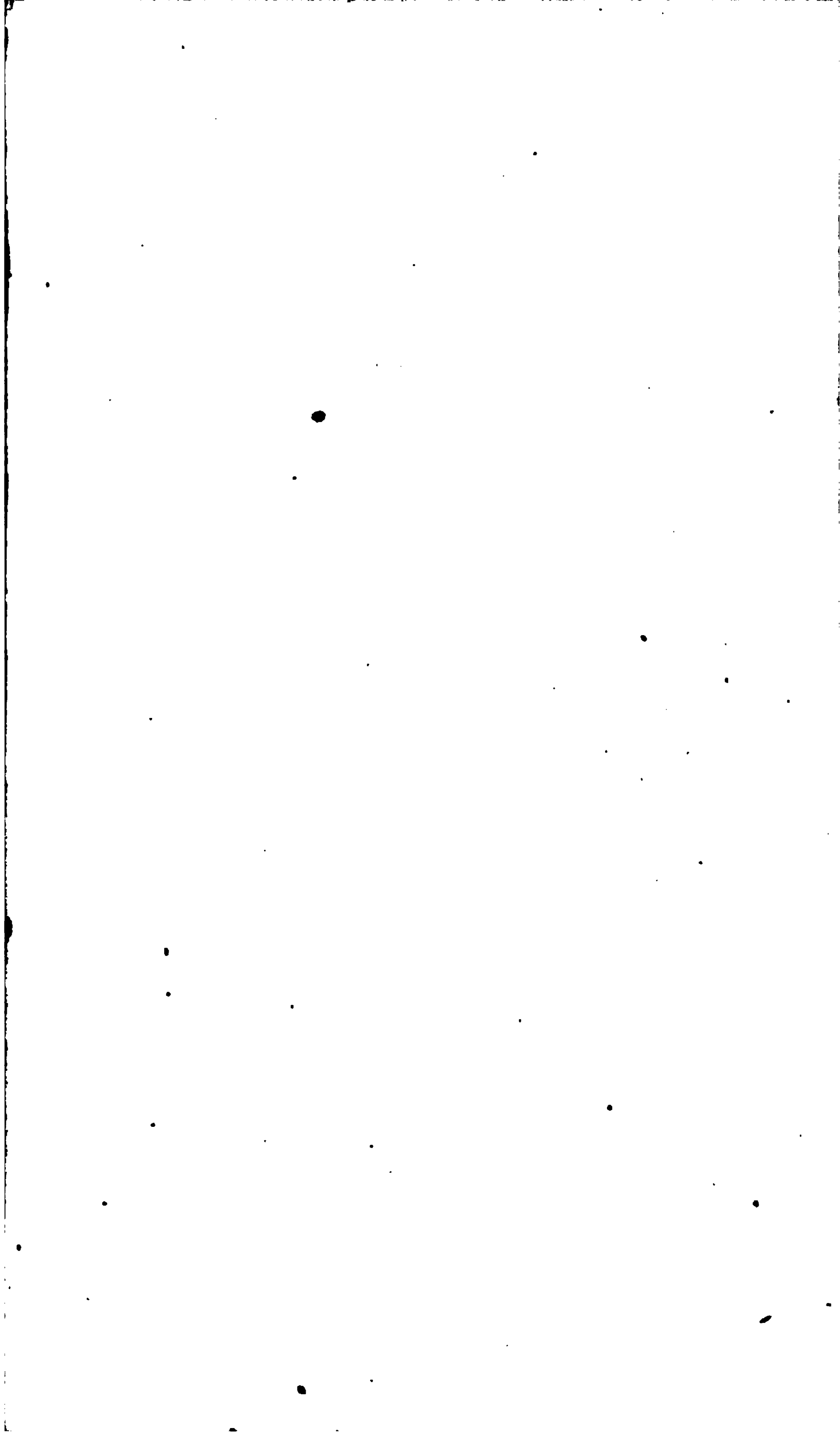
1791. C. 16.

XVIII. § 1. Where any person or persons have purchased property under the confiscation laws of this state, shall sue or be sued for the same in any of the superior or courts of law within this state, and in all cases where suits may be now depending on such account, it shall be the duty of the clerk of such court to give information thereof to the attorney or solicitor general, and supply him with a copy of the declaration filed in the said suits, and the attorney or solicitor general shall ex officio be bound to assist in the said suit, and take such legal precautions therein as may appear to him best calculated to secure the interest of the state.

XIX. § 2. Where the person claiming under this state is the plaintiff, he shall originate his suit in the superior court of law or court of equity, and if suit be commenced against such person in any county court, the judges of the superior court of law for the district where such county is situated shall upon motion cause the proceedings to be brought up before such superior court certiorari or other proper writ.

XX. § 4. When any person or persons shall be evicted of land or other property purchased under the confiscation laws of this state, after due trial and proper defence made agreeable to this act, it shall be incumbent upon him or them to prove to the satisfaction of the court the certificates for which the lands or other property were actually paid to the officer authorised by law to receive the same in behalf of the state; and upon such proof being made, the person or persons so evicted and injured, shall receive a certificate thereof from the clerk of the court, and signed by the judge or judges before whom the injury was made, and also specifying the amount of the certificates so paid, which shall be a sufficient voucher to the treasurer for paying over the amount certified, agreeable to the value of certificates as raised and ascertained by this act, and he is hereby authorised and directed to pay the same accordingly.

XXI. § 5. Where any property purchased under sales made by virtue of the confiscation laws, has been may hereafter be restored by the General Assembly, upon due proof being made to the satisfaction of the treasurer that the certificates were actually paid by the purchaser.



or purchasers, he or they shall be entitled to the same relief as is provided by this act for persons that have been evicted of property purchased under the confiscation laws. Certifi-
cates 22 23

1794. C. 3.

XXII. § 1. All lands not heretofore sold, which under any of the laws commonly called confiscation laws, have been forfeited or confiscated to the use of this state, are hereby granted to and vested in the trustees of the University of North Carolina, and their successors forever, in trust for the use and benefit of said University. Vested in
the University.

XXIII. § 2. And whereas a number of the inhabitants of Mecklenburg county, and other citizens of this state, purchased lands from Henry Eustace M'Culloch, taking his bonds to make a title or titles to the said purchased premises, which lands have become confiscated to the state, and the said purchasers cannot procure titles to the same; and whereas also other persons who had purchased lands from the said Henry Eustace M'Culloch, executed mortgages to him for the said purchased premises, previous to the 4th day of July 1776, and it is proper that such persons should have some easy method of completing their titles, and removing the incumbrances aforesaid; so much and such part of the said confiscated lands as may have been bona fide purchased or mortgaged as aforesaid, are granted to and vested in the trustees of the University of North-Carolina and their successors, not only for the use and purpose above mentioned in this act, but on the express trust that the said trustees and their successors shall take and use all proper ways and means both in law and equity, to convey and assure to the equitable owners or claimants of such lands a good and sufficient title in law to the lands so purchased or mortgaged as aforesaid: such equitable owners or claimants paying or securing to be paid to the said trustees or their successors such sum or sums of money as may be justly and equitably due on such purchase or mortgage: Provided that the interest to be required from such claimants shall in no instance exceed the principal, nor shall interest in any case be calculated during the war. Provision
for purcha-
sers from
H. E. M'
Culloch.

XXIV. § 3. The said trustees shall keep an accurate account of the proceeds of the sales and payments made for said lands, with their expenses and disbursements, together with a statement of all other monies entrusted to their management, either by the public or individuals, and lay the same annually before the General Assembly. Account of
sales to be
kept.

XXV. § 4. The proceeds of all sales which shall be

CONFISCATION.

interest made and the amount of all payments received under the act, shall be considered as a fund, the interest whereof shall be applied to the uses and purposes expressed in this act for the term of ten years, at the expiration of which time the principal thereof, after deducting the charges of collection, shall be subject to the direction and disposition of the General Assembly; Provided that whenever the principal collected shall exceed ten thousand pounds, the surplus, if in cash, shall immediately be paid into the treasury of this state, and if in bonds, it shall be the duty of the said trustees to transfer them without delay to the public treasurer for the time being, to the use of the state.

1799. C. 2.

XXVI. All power and authority to any person or persons or any body corporate, under the escheat law, and the act of 1794, c. 3, shall be suspended until the end of the next General Assembly.

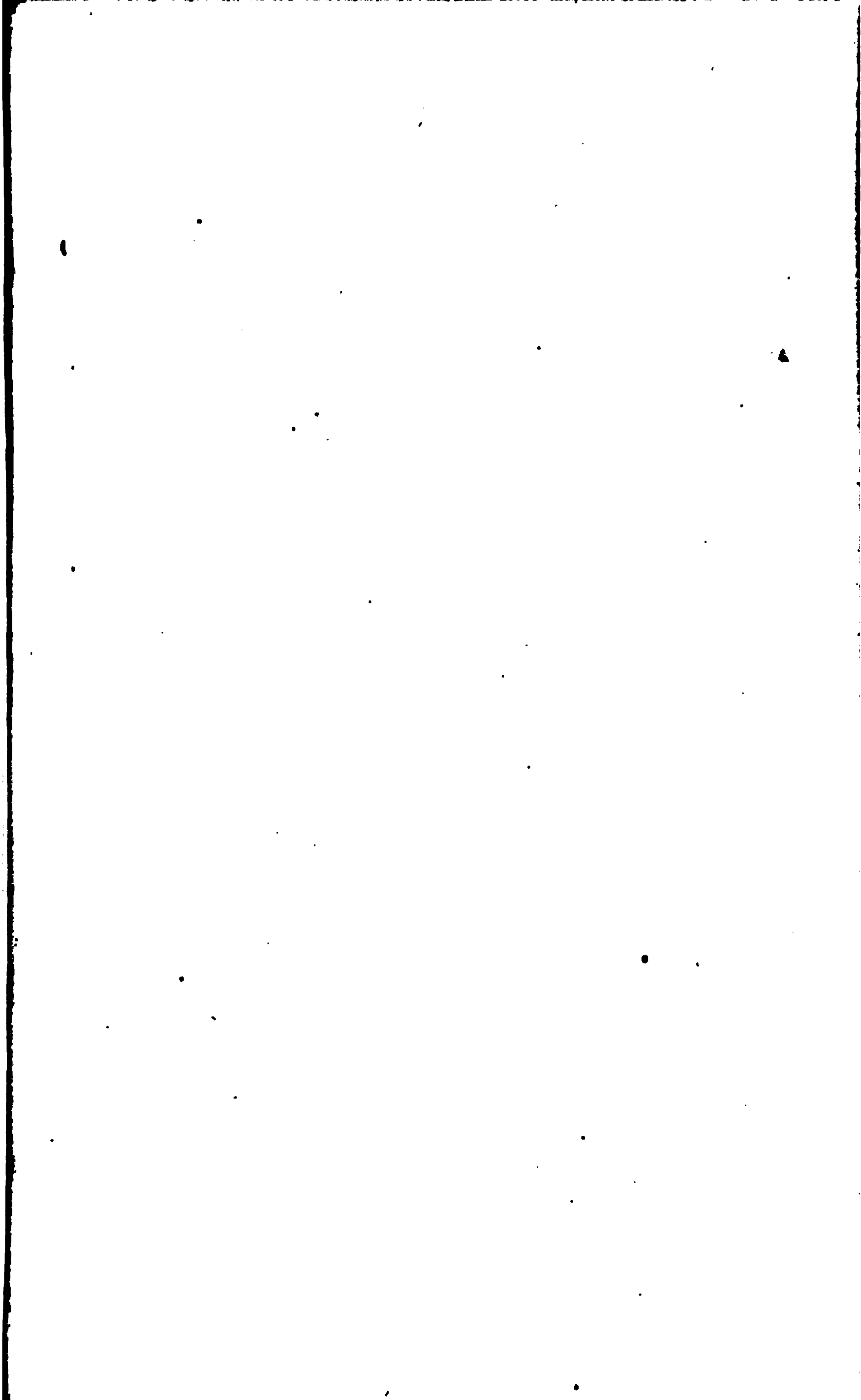
XXVII. § 4. The operation of the act of limitation shall be suspended for the same period, in all suits that may hereafter be brought to recover the title or possession of the lands aforesaid, or part thereof.

1801. C. 4.

XXVIII. § 1. From and after the passing of this act, it shall and may be the duty of the judges of the superior courts of law and equity in this state at the times when the courts they shall attend, to appoint some proper person in each district in this state, commissioner of confiscated lands, whose duty it shall be immediately to search for and demand, and receive, all confiscated lands, and sell by public sale all that have not been legally sold by the trustees of the University, or former commissioners; and if any person or persons holding any confiscated lands shall refuse to give up the same, the commissioners so appointed as aforesaid, are hereby vested with full power and authority to sue for and recover the same, under the direction of one of the law officers of this state, in a court having cognizance thereof, for the use of the state as hereinafter directed.

XXIX. § 2. The said commissioners when so appointed shall, before they enter on the duties of their office, give bond with approved security to the court, for such sum as the court shall direct, for the faithful discharge of their duty, and shall take the following oath of affirmation, viz.

* I, A B, commissioner of confiscated lands for the district



do solemnly swear [or affirm] that, as commissioner of said district, I will discharge my duty to the best of my knowledge and ability. So help me, God!" Oath.

XXX. § 3. It shall be the duty of said commissioners to account with the public treasurer annually, for monies by them collected in consequence of their appointment, in the same manner and under the same rules, regulations, and restrictions as sheriffs of this state are bound by law to do, and shall be liable to the same fines and forfeitures as sheriffs are. To account with the Treasurer.

XXXI. § 4. The said commissioners shall be allowed ten per cent. on all monies by them collected and paid into the public treasury, to be allowed and paid by the treasurer on settlement of their accounts, who shall be allowed the same in settlement of his accounts. And if any commissioner appointed as aforesaid, shall refuse to act, die, or remove out of the district for which he was appointed, it shall be the duty of the judge attending the succeeding court of said district where such vacancy shall have happened, to appoint another in the same manner as the first. Allowance.

1802. C. 11.

XXXII. § 1. From and after the passing of this act, when any commissioner of confiscated property shall have information of any confiscated lands within his district, it shall be his duty to seize said lands for the use of the state, and shall cause the same to be sold at public sale, on a credit of one year for one moiety, and two years thereafter for the other moiety, for the most that may be gotten for the same, first giving two months notice by advertisement in the Raleigh Register, or in any gazette published in the district where the land lieth, and by advertisement to be set up at the courthouse of said district, and at each of the other courthouses within the same; and if any person should lay claim to said lands, previous to the sale thereof, he shall notify the same to the commissioner, who shall at the next succeeding court of the district, cause an issue to be made up between the state and the person so claiming the land aforesaid, and a jury shall be impannelled to try the same, subject to the same rules and regulations as are practised in the trials of other suits at law. Commis- sioner to sell property. When any claim is made issue to be tried.

XXXIII. § 2. It shall be the duty of the commissioners of each district, to sell the confiscated lands within his district at public sale at the courthouse in the county where the land lieth, first giving forty days notice by advertisement, to be set up at the courthouse and four Lands to be sold at the courthouse.

CONSTABLES.

c places in said county where said lands m
r all sales made under this act, he shall g
ifore said, and take from the purchasers bo
nt security for the purchase money, payable
the use of the state ; and immediately af
ion of the time for which credit was given,
ed to collect the same : and the same being
hall transmit the amount thereof to the treas
tate, first deducting ten per cent. for his co
the same.

§ 3. It shall be the duty of each comm
vious to his selling any of the confiscated la
act directed, to issue his order to the survey
nty where the land lieth, directing him to p
out the lines of said land, and make two j
ms* thereon, and return the same to him wi
ys after the receipt of such order ; for wh
gether with the hire of chain carriers, the s
hall be allowed forty shillings for each tract
n so surveyed and returned, to be paid by
issioner, out of the first money which m
his hands, which shall be allowed him in
of his accounts with the public treasurer.

§ 4. When any tract of land shall be so
er the direction of this act, the commission
rse on each of the plats of survey of said la
ng certificate :

commissioner of confiscated property, for the dit
hereby certify that did on the day of
 , at the courthouse in the county of , bid
ntioned in the within plat, for the sum of ,
ond and security for the purchase money of the sa
law."

ts, being thus certified and presented to
f state, he shall file the same in his office, a
make out a grant to the purchaser, with one
inixed thereto ; which grant shall be execu
vernor for the time being, and shall convey
rchaser, his heirs and assigns, all the esta
title, which this state may have in and to sa

Certificates 22. Entries 19. University 5, 6, 9.

CONSTABLES.

1741. C. 5.

The courts of the several counties which ne
after shall be within this government, shall,

Constables

Time within which writs shall be
brought on Constable bonds. 62 Geo.
1826. C. 32 -

All Bonds taken by Constables for the
protection of property shall be sent
- 1000 by one or more writs -
1828. C. 12.

Constables liable for neglect in
collecting claims placed in their
hands for collection -
Act of 1818 C. 980 2 L.M. 6. 1452 -

Constables only one in each Cap^t. district -
Two const^{ables} in the towns -
The inhabitants within the Cap^t. dist^{ric}
to elect const^{ables} within one month pre-
ceding the 1st. C. 1. 6th in the several
counties -

C. 1. 6th to fill vacancies
1833. C. 5 -

1. The first part of the paper is devoted to a discussion of the

2. The second part of the paper is devoted to a discussion of the

3. The third part of the paper is devoted to a discussion of the

the court to be holden for each respective county in this government next after the first day of January, yearly and ^{How &c.} ^{pointed.} every year, nominate and appoint as many persons of their said county as they shall judge necessary, to be constables within the same for the then ensuing year, which constables so appointed shall have the following oath administered to them, (*which see under Oaths 23.*)

II. § 3. Each and every constable so appointed, nominated, and sworn, is and are hereby invested with, ^{Their pow} and may execute the same power and authority to all in- ^{ers.} tents and purposes as the constables within the kingdom of England are by law invested with and execute.

III. § 4. If any person or persons nominated and appointed constable by the court of any of the counties within this government, shall neglect or refuse to qualify ^{Penalty for} himself according to the directions of this act, within ten ^{not quali-} days after notice of his nomination and appointment as ^{fying.} aforesaid, without he can show sufficient cause for his neglect, to be admitted of by the justices, who shall or may grant their warrant to recover the penalties in this act mentioned, he shall forfeit the sum of fifty shillings proclamation money, to be recovered by a warrant from two justices of the peace in the county where such person was appointed constable, and applied to the use of the county where such constable is appointed, provided such notice be in writing, signed by the clerk of the court and served by the sheriff of the county, or preceding constable, or such constable or constables as shall be appointed according to the directions of this act.

IV. § 5. No person in commission of any office, ci- ^{Who ex-} vil or military, or member of Assembly for the time be- ^{empted} ing, nor any one who has served in any such station, nor ^{from ser-} any other who has served as constable within the space of ^{ing.} five years before, nor any person who is exempt by the laws of England, shall be obliged to serve in the office of constable.

V. § 6. Any one justice of the peace of the county shall and he is hereby empowered to administer to the ^{One jus-} several constables hereafter to be appointed in his county, ^{tice may} the oath directed by this act for their qualification. ^{administer} ^{the oath.}

VI. § 7. Upon the death or removal of any constable out of the district for which he was appointed constable, it shall and may be lawful for the justices of the county court in which such district shall be, or any one of them, to appoint and swear another person to be constable in the room and stead of the constable dead or re- ^{Vacancy} ^{how sup-} ^{plied.}

moving out of his district as aforesaid, who shall act until the next county court, the justices of which court shall then either continue the person appointed as aforesaid, nominate and appoint a new one.

Penalty
for neglect-
ing to
serve pre-
cept.

VII. § 8. If any constable to whom any precept directed by any justice of the peace, shall refuse or neglect to serve such precept, he shall for every such offence on complaint by the party prosecuting, be fined at discretion of the court of which such justice is a member to be paid to the complainant,

Justice
may direct
his precept
to any per-
son for
want of a
constable.

VIII. § 9. It shall and may be lawful to and for any justice of the peace within this government, to direct such precept or mandate, in the absence of or for want of a constable, to any person not being a party who shall be obliged to execute, or endeavour in the best manner he can, to execute the same, under the like penalty any constable shall be liable to by virtue of this act, to be recovered and applied as aforesaid.

His ex-
emptions.

IX. § 10. Every constable within this province, appointed and qualified as herein before directed, shall and is hereby exempted from working on the roads and during the year he shall be constable.

1786. C. 14.

To give
bond.

X. § 8. The constables of this state shall be appointed as usual, who shall enter into bond, payable to the governor, with sufficient securities, with the court, in the sum of two hundred and fifty pounds, for the faithful discharge of his duty,

1790. C. 20.

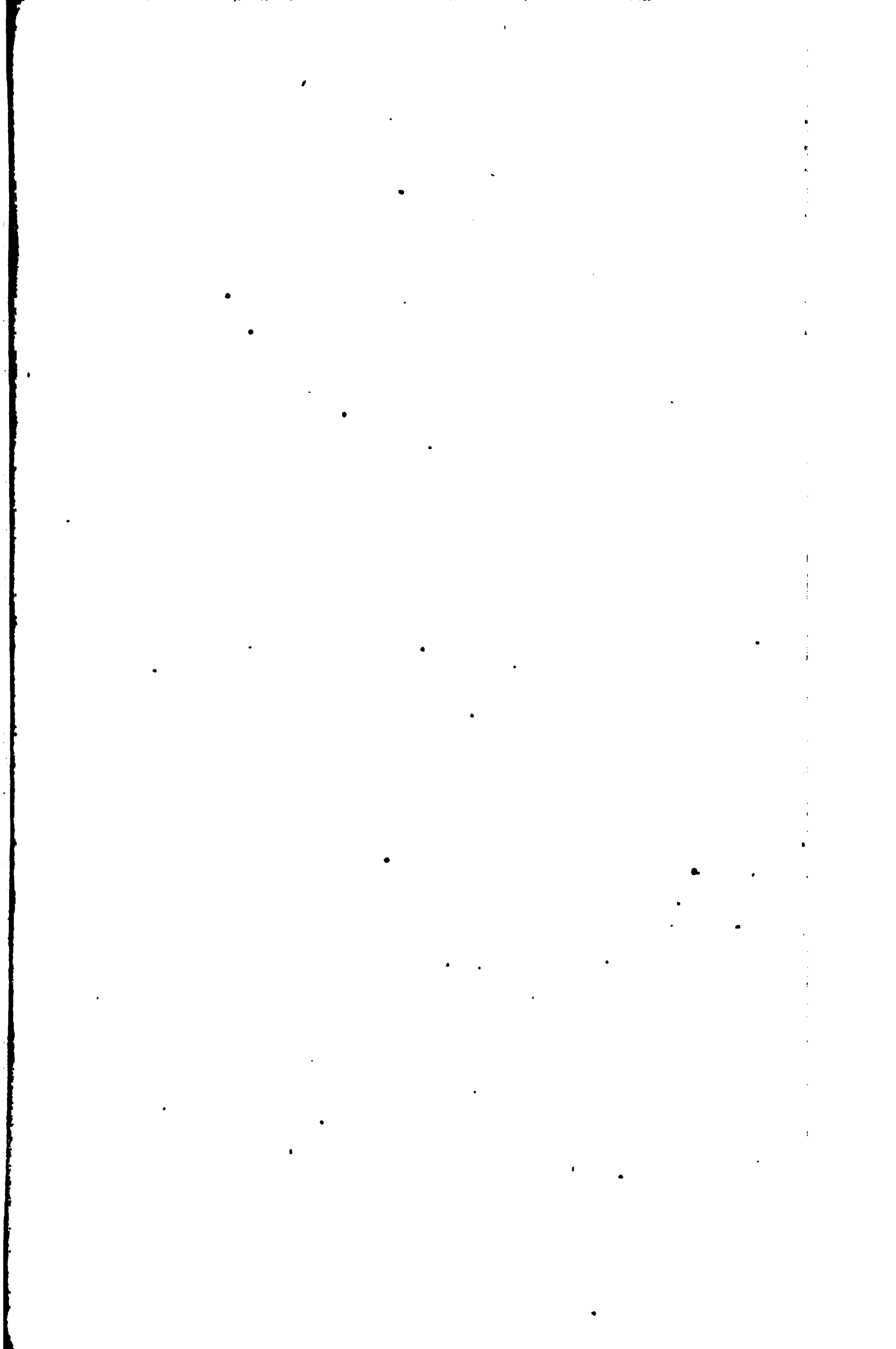
May serve
process on
bays, rivers
or creeks.

XI. It shall be lawful for any constable or constables in this state to serve in like manner, as *sheriffs*, upon any bay, river, or creek, adjoining their counties, and return to the magistrate or magistrates of their respective counties all process usually executed by such officer or officers.

1793. C. 8.

How com-
pelled to
pay monies
collected.

XII. § 5. When any constable or constables in any county within this state, shall or may have received money in virtue of his office or appointment as constable and shall fail to pay the same to the person or persons entitled to receive it, then and in that case it shall and may be lawful upon motion made in the court of the county in which such constable resides, for said court to give judgment against such constable or constables, and his or their securities, for all sum or sums of money so received and collected, together with costs, and to award execution thereon, in the same manner as other executions issued



from said court, provided such constable has ten days previous notice of such motion; and where it shall so happen that any person's appointment as constable shall expire, or he shall be removed from his office or appointment before such motion made, the same remedy, proceedings, and relief may be had against him as if such person was actually in office.

1810. C. 18.

XIII. § 1. From and after the ratification of this act, when any sheriff, constable, or clerk of any court within this state, shall, by virtue of his office, receive any sum or sums of money for or on account of any person or persons whatsoever, and shall not on application made to him pay the same, such person or persons may give to such sheriff, constable, or clerk ten days' notice in writing, to be proved in the usual manner, to appear before some justice of the peace of the county, to show cause why the justice should not grant judgment and issue execution for the same against him and his securities. And if such sheriff, constable, or clerk, shall not appear before such justice, or if appearing, does not show sufficient cause to the contrary, it shall be lawful and proper for such justice to enter up and grant judgment and award execution against such delinquent for the money due.—
 Provided, that nothing contained herein shall be construed to extend to any case where the demand or sum shall exceed twenty pounds; any law, usage, or custom to the contrary notwithstanding.

Sheriff, constables, and clerks, how to be dealt with on failing to account for money received.

Not to extend to demands above 20l. 1802, 1.

1804. C. 8.

XIV. § 2. The constables who may hereafter be appointed shall give bond and security in the sum of five hundred pounds, under the same rules, regulations, and restrictions as are already provided by law.

Constables to give bond.

See Escape 1, 3. Execution. Fees 19. Gaming 5. Impeachment 6. Justices 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 24, 25, 26, 27. Lands 14. Oaths 23. Overseers of Roads 1. Poor 7. Runaways 3, 7, 8, 9, 10. Sailors 1. Sales 1. Sheriffs 1. Slaves 9, 58, 79. Taxes 7, 48. Weights and Measures 6. Witnesses 6.

CONSTITUTION OF NORTH-CAROLINA.

DECLARATION OF RIGHTS.

§ 1. That all political power is vested in and derived from the people only.

§ 2. That the people of this state ought to have the sole and exclusive right of regulating the internal government & police thereof.

§ 3. That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

§ 4. That the legislative, executive, and supreme judicial power of government ought to be forever separate and distinct from each other.

§ 5. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights and ought not to be exercised.

§ 6. That elections of members to serve as representatives in the General Assembly ought to be free.

§ 7. That in criminal prosecutions every man has a right to be informed of the accusation against him, and to confront his accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

§ 8. That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.

§ 9. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.

§ 10. That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

§ 11. That general warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

§ 12. That no freeman ought to be taken, imprisoned, or disseised of his freehold, liberties, or privileges, or outlawed or excommunicated, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

§ 13. That every freeman restrained of his liberty, is entitled to a remedy, to enquire into the lawfulness thereof, and to remove him if unlawful; and that such remedy ought not to be denied or delayed.

§ 14. That in all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

§ 15. That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

§ 16. That the people of this state ought not to be taxed without being made subject to the payment of any impost or duty, without their consent of themselves or their representatives in General Assembly, freely given.

§ 17. That the people have a right to bear arms for the defence of the state; and as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the militia should be kept under strict subordination to, and governed by, the civil power.

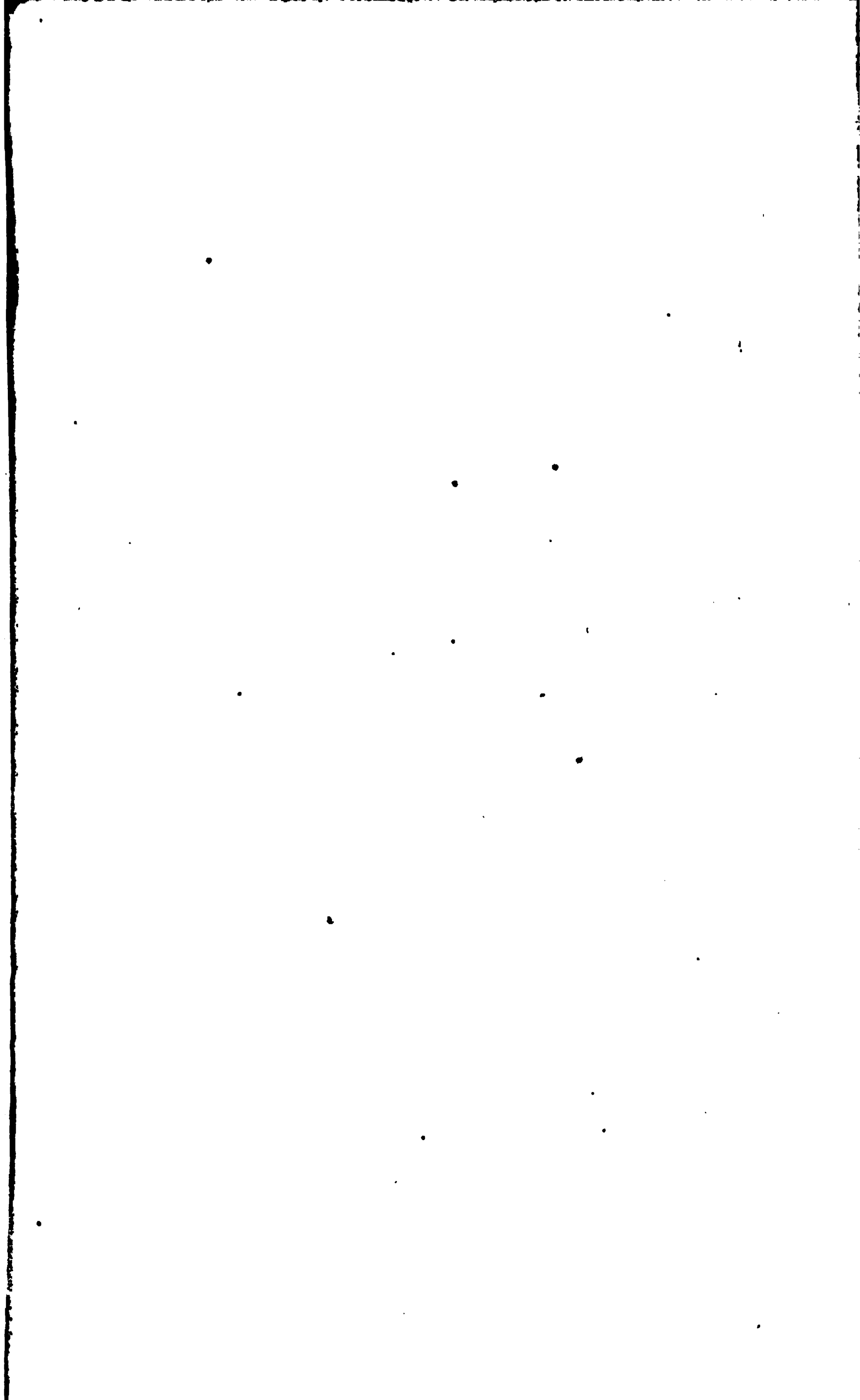
§ 18. That the people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the Legislature for redress of grievances.

§ 19. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.

§ 20. That for the redress of grievances, and for amending, strengthening the laws, elections ought to be often held.

§ 21. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

§ 22. That no hereditary emoluments, privileges, or honours ought to be granted or conferred in this state.



§ 23. That perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.

§ 24. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no ex post facto law ought to be made.

§ 25. The property of the soil, in a free government, being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the state should be ascertained with precision. And, as the former temporary line between North-Carolina and South-Carolina was confirmed and extended by commissioners appointed by the Legislatures of the two states, agreeably to the order of the late king George the second, in council,—that line, and that only, should be esteemed the southern boundary of this state, as follows:—that is to say,—Beginning on the sea side, at a cedar stake at or near the mouth of Little river, being the southern extremity of Brunswick county; and running from thence a north-west course through the Boundary house, which stands in $33^{\circ} 56'$, to 35° north latitude; and from thence a west course so far as is mentioned in the charter of king Charles the second, to the late proprietors of Carolina. Therefore, all the territories, seas, waters, and harbours, with their appurtenances, lying between the line above described and the southern line of the state of Virginia, which begins on the sea shore in $36^{\circ} 30'$ north latitude, and from thence runs west, agreeably to the said charter of king Charles, are the right and property of the people of this state, to be held by them in sovereignty; any partial line without the consent of the Legislature of this state, at any time thereafter directed or laid out, in any wise notwithstanding. Provided always, that this declaration of rights shall not prejudice any nation or nations of Indians from enjoying such hunting grounds as may have been, or hereafter shall be secured to them by any former or future Legislature of this state. And provided also, that it shall not be construed so as to prevent the establishment of one or more governments westward of this state, by consent of the Legislature.* And provided further, that nothing herein contained, shall affect the titles or possessions of individuals, holding or claiming under the laws heretofore in force, or grants heretofore made by the late king George the third, or his predecessors, or the late lords proprietors, or any of them.

CONSTITUTION.

Whereas allegiance and protection are in their nature reciprocal, and the one should of right be refused when the other is withdrawn. And whereas George the third, king of Great Britain, and late sovereign of the British American colonies, hath not only

* In the year 1789, the Legislature of this state ceded to the Congress of the United States, "all right, title, and claim, which this state had to the sovereignty and territory of the lands situate within the chartered limits of this state, west of a line beginning on the extreme height of the Stone mountain, at the place where the Virginia line intersects it; running thence along the extreme height of said mountain to the place where Watauga river breaks through it; thence a direct course to the top of the Yellow mountain, where Bright's road crosses the same; thence along the ridge of the said mountain between the waters of Doe river and the waters of Rock-reek, to the place where the road crosses the Iron mountain;

withdrawn from them his protection, but by an act of the British legislature declared the inhabitants of these states out of the protection of the British crown, and all their property found upon high seas liable to be seized and confiscated to the uses mentioned in the said act. And the said George the third has also sent fleets and armies to prosecute a cruel war against them, for the purpose of reducing the inhabitants of the said colonies to a state of abject slavery. In consequence whereof, all government under the British king, within the said colonies, has ceased, and a total dissolution of government in many of them hath taken place. And whereas the Continental Congress, having considered the premises, and other previous violations of the rights of the good people of America, have, therefore, declared, that the Thirteen United Colonies are of right, wholly absolved from all allegiance to the British crown, or any other foreign jurisdiction whatsoever; and that the said Colonies now are, and forever shall be, free and independent states. Wherefore, in our present state, in order to prevent anarchy and confusion, it becomes necessary, that a government should be established in this state. Therefore, we, the representatives of the freemen of North-Carolina, chosen and assembled in congress, for the express purpose of framing a Constitution, under the authority of the people, most conducive to their happiness and prosperity, declare, that a government for this state, shall be established in the manner and form following, to wit:

§ 1. That the legislative authority shall be vested in two distinct branches, both dependant on the people, to wit, a Senate and House of Commons.

§ 2. That the Senate shall be composed of representatives annually chosen, by ballot; one from each county in this state.

§ 3. That the House of Commons shall be composed of representatives annually chosen, by ballot; two for each county, and one for each of the towns of Edenton, Newbern, Wilmington, Salisbury, Hillsborough, and Halifax.*

§ 4. That the Senate and House of Commons, assembled for the purpose of legislation, shall be denominated, The General Assembly.

§ 5. That each member of the Senate, shall have usually resided in the county in which he is chosen, for one year immediately preceding his election; and for the same time shall have possessed and continue to possess, in the county which he represents, not less than three hundred acres of land, in fee.

§ 6. That each member of the House of Commons shall have usually resided in the county in which he is chosen, for one year immediately preceding his election, and for six months shall have

from thence along the extreme height of said mountain to where the Roanoke river runs through the same; thence to the top of the Bald mountain; thence along the extreme height of said mountain to the Pine rock on Frenchbroad river along the highest ridge of the said mountain to the place where it is called the Great Iron or Smoky mountain; thence along the extreme height of said mountain to the place where it is called Unicoy or Unaka mountain, between the Indian towns of Cowee and Chota; thence along the main ridge of said mountain to the south boundary of this state." And the Congress, in the following year, accepted this occasion.

* By an ordinance of the Convention, which met in 1789, it is ordained and declared, that the town of Fayetteville shall also be represented in the General Assembly.

possessed, and continue to possess, in the county which he represents, not less than one hundred acres of land, in fee, or for the term of his own life.

§ 7. That all freemen, of the age of twenty one years, who have been inhabitants of any one county within the state, twelve months immediately preceding the day of any election, and possessed of a freehold, within the same county, of fifty acres of land, for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate.

§ 8. That all freemen, of the age of twenty-one years, who have been inhabitants of any county within this state, twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons, for the county in which he resides.

§ 9. That all persons possessed of a freehold in any town in this state having a right of representation, and also all freemen who have been inhabitants of any such town twelve months next before and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the House of Commons. Provided always, that this section shall not entitle any inhabitant of such town to vote for members of the House of Commons for the county in which he may reside; nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member for said town.

§ 10. That the Senate and House of Commons when met, shall each have power to choose a speaker and other their officers, be judges of the qualifications and elections for their members, sit upon their own adjournments, from day to day, and prepare bills to be passed into laws. The two houses shall direct writs of election for supplying intermediate vacancies, and shall also jointly, by ballot, adjourn themselves to any future day and place.

§ 11. That all bills shall be read three times in each house before they pass into laws, and be signed by the speakers of both houses.

§ 12. That every person who shall be chosen a member of the Senate or House of Commons, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the state. And all officers shall also take an oath of office.

§ 13. That the General Assembly shall, by joint ballot of both houses, appoint judges of the supreme courts of law and equity, judges of admiralty, and an attorney general, who shall be commissioned by the governor and hold their offices during good behaviour.

§ 14. That the Senate and House of Commons shall have power to appoint the generals and field officers of the militia, and all officers of the regular army of this state.

§ 15. That the Senate and House of Commons, jointly, at their first meeting after each annual election, shall, by ballot, elect a governor, for one year; who shall not be eligible to that office longer than three years in six successive years. That no person, under thirty years of age, and who has not been a resident in this state above five years, and having, in the state, a freehold, in lands and tenements, above the value of one thousand pounds, shall be eligible as governor.

§ 16. That the Senate and House of Commons, jointly, at their first meeting after each annual election, shall, by ballot, elect seven

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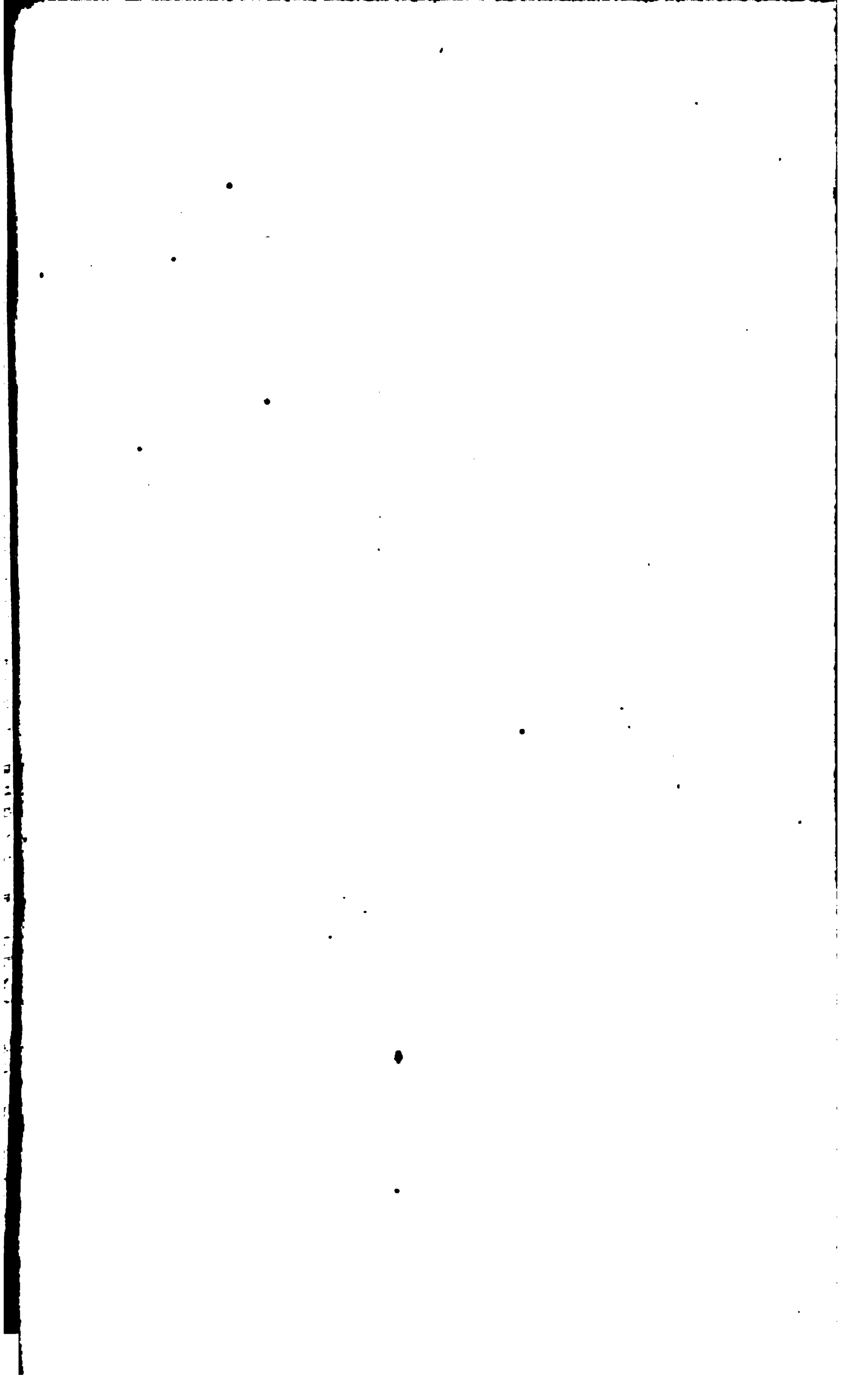
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of the General Assembly, or be eligible to any office in this state, until such persons shall have fully accounted for and paid into the treasury all sums for which they may be accountable and liable.

§ 26. That no treasurer shall have a seat in either the Senate, House of Commons, or council of state, during his continuance in office, or before he shall have finally settled his accounts with the public, for all monies which may be in his hands at the expiration of his office, belonging to the state, and hath paid the same into the hands of the succeeding treasurer.

§ 27. That no officer in the regular army or navy in the service and pay of the United States, of this or any other state, nor any contractor or agent for supplying such army or navy with clothing or provisions, shall have a seat in either the Senate, House of Commons, or council of state, or be eligible thereto; and any Member of the Senate, House of Commons, or Council of State, being appointed to and accepting of such office, shall thereby vacate his seat.

§ 28. That no member of the council of state shall have a seat either in the Senate or House of Commons.

§ 29. That no judge of the supreme court of law or equity, or judge of admiralty, shall have a seat in the Senate, House of Commons, or council of state.

§ 30. That no secretary of this state, attorney general, or clerk of any court of record, shall have a seat in the Senate, House of Commons, or council of state.

§ 31. That no clergyman, or preacher of the gospel, of any denomination, shall be capable of being a member of either the Senate, House of Commons, or council of state, while he continues in the exercise of the pastoral function.

§ 32. That no person who shall deny the being of God, or the truth of the protestant religion, or the divine authority of the Old or New Testament, or who shall hold religious principles incompatible with the freedom and safety of the state, shall be capable of holding any office or place of trust or profit in the civil department, within this state.

§ 33. That the justices of the peace within the respective counties of this state, shall, in future, be recommended to the governor for the time being, by the representatives in General Assembly, and the governor shall commission them accordingly. And the justices, when so commissioned, shall hold their offices during good behaviour, and shall not be removed from office by the General Assembly unless for misbehaviour, absence, or inability.

§ 34. That there shall be no establishment, of any one religious church, in this state, in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship, contrary to his own faith or judgment, nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform. But all persons shall be at liberty to exercise their own mode of worship. Provided, that nothing herein contained, shall be construed to exempt preachers of treasonable or seditious discourses from legal trial and punishment.

§ 35. That no person in the state shall hold more than one lucrative office at any one time. Provided, that no appointment in the militia, or to the office of a justice of the peace, shall be considered as a lucrative office.

§ 36. That all commissions and grants shall run in the name of the

state of North-Carolina, and bear test, and be signed by the governor;—and all writs run in the same manner, and bear test, and be signed by the clerks of the respective courts;—and indictments conclude, “against the peace and dignity of the state.”

§ 37. That the delegates for this state to the Continental Congress, while necessary, shall be chosen annually by the General Assembly, by ballot; but may be superseded, in the mean time, in the same manner; and no person shall be elected to serve in that capacity more than three years successively.

§ 38. That there shall be a sheriff, coroner, or coroners, and constables, in each county within this state.

§ 39. That the person of a debtor, where there is not a strong presumption of fraud, shall not be confined in prison after delivering up, bona fide, all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable, by sufficient sureties, unless for capital offences when the proof is evident or the presumption great.

§ 40. That every foreigner, who comes to settle in this state, having first taken an oath of allegiance to the same, may purchase or by other just means acquire, hold, and transfer land, or real estate; and, after one year's residence, shall be deemed a citizen.

§ 41. That a school or schools shall be established by the Legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices. And all useful learning shall be duly encouraged and promoted in one or more Universities.

§ 42. That no purchase of lands shall be made of the Indians, but on behalf of the public, and by authority of the General Assembly.

§ 43. That the future Legislature of this state shall regulate its grants in such a manner as to prevent perpetuities.

§ 44. That the declaration of rights is hereby declared to be a part of the constitution of this state, and ought never to be violated on any pretence whatever.

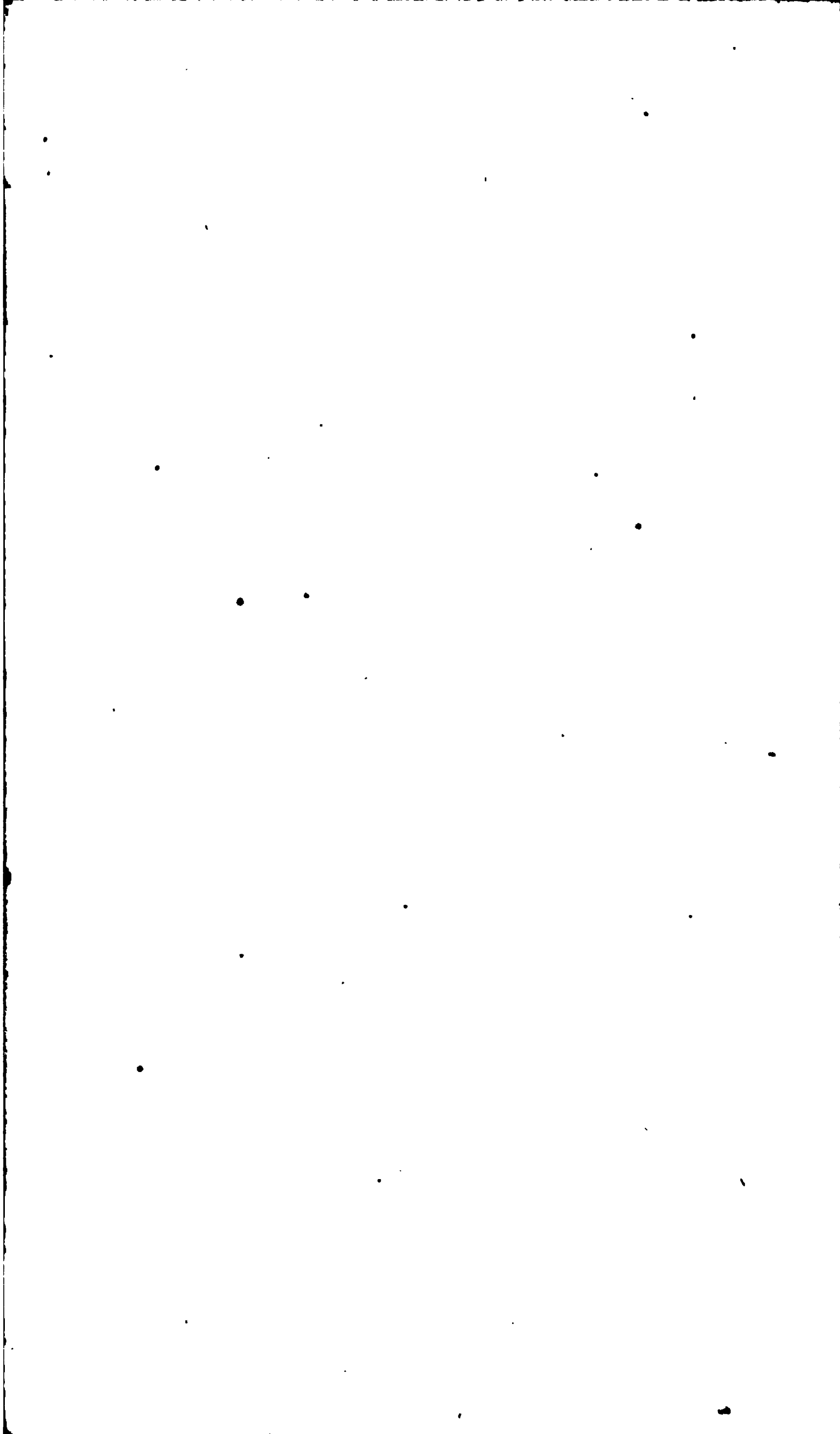
§ 45. That any member of either house of the General Assembly, shall have liberty to dissent from, and protest against any act or resolve which he may think injurious to the public or any part thereof, and have the reasons of his dissent entered on the journals.

§ 46. That neither house of the General Assembly shall proceed upon public business, unless a majority of all the members of such house are actually present; and that upon a motion made and seconded, the yeas and nays upon any question shall be taken and entered on the journals; and that the journals of the proceedings of both houses of the General Assembly, shall be printed and published immediately after their adjournment.

This constitution is not intended to preclude the present Congress from making a temporary provision for the well ordering of this state, until the General Assembly shall establish a government agreeably to the mode herein before prescribed.

CONSTITUTION OF THE UNITED STATES.

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure



CONSTITUTION OF THE UNITED STATES.

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blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

Art. I. § 1. All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

§ 2. The House of Representatives shall be composed of members, chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be entitled to choose three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New-Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North-Carolina five, South-Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

§ 3 The Senate of the United States shall be composed of two senators from each state, chosen by the Legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled, in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any state, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the Senate, but shall have no vote unless they be equally divided.

The Senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

CONSTITUTION OF THE UNITED STATES.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside. And no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than to removal from office and disqualification to hold and enjoy any office of honour, trust, or profit, under the United States. But the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

§ 4. The times, places, and manner of holding elections, for senators and representatives, shall be prescribed in each state, by the Legislature thereof. But the Congress may at any time, by law, make or alter such regulations, except as to the places for choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

§ 5. Each house shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business. But a smaller number may, adjourn from day to day, and may be authorised to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such part as may in their judgment require secrecy. And the yeas and nays of the members of either house on a question, shall, at the desire of one-fifth of the members present, be entered on the journal.

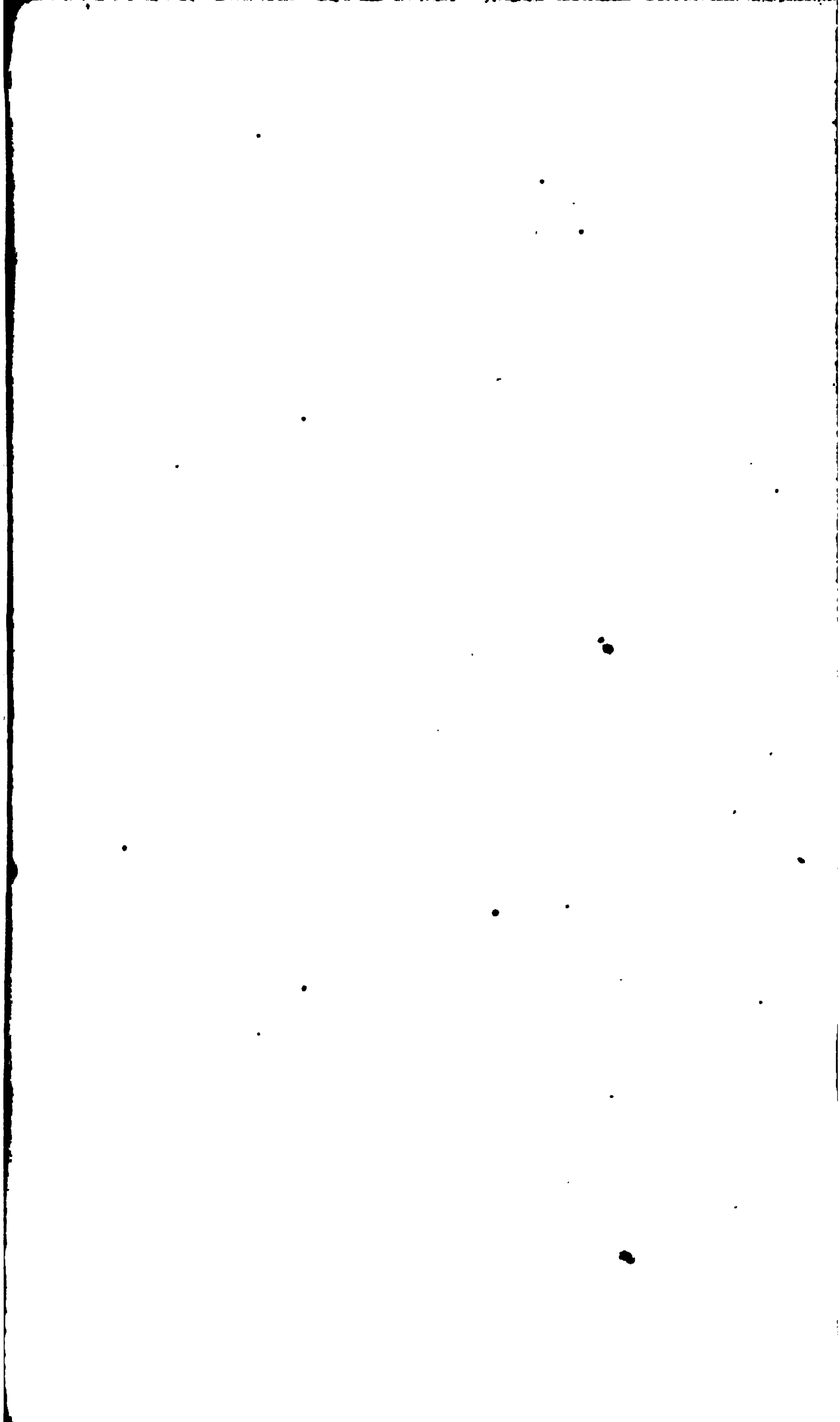
Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 6. The senators and representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same. And for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created or the emolument whereof shall have been increased during such time. And no person holding any office under the United States, shall be a member of either house during his continuance in office.

§ 7. All bills for raising revenue shall originate in the House of Representatives. But the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and Senate, shall, before it become a law, be presented to the president of the United States. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections, at large, and



their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the president, within ten days, (Sundays excepted) after it shall have been presented him, the same shall be a law, in like manner as if he had resigned it; unless the Congress, by their adjournment, prevent its return; in which case, it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

§ 8. The Congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States: But all duties, imposts, and excises, shall be uniform, throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations; and among the several states; and with the Indian tribes:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:

To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and the useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court, to define and punish piracies and felonies committed on the high seas and offences against the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

To raise and support armies: But no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions.

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress:

To exercise exclusive legislation, in all cases whatsoever, over

CONSTITUTION OF THE UNITED STATES.

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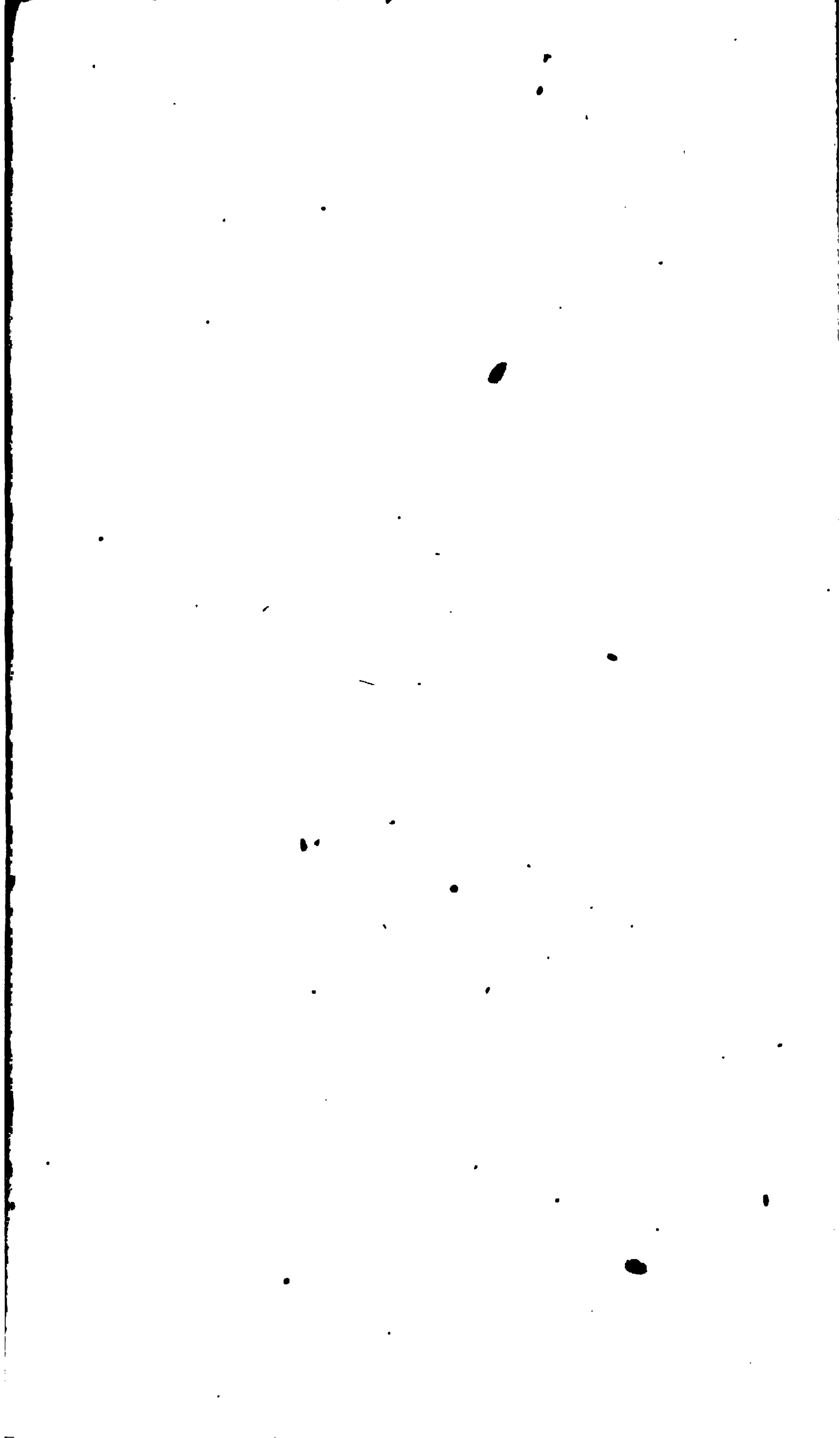
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laws shall be subject to the revision and control of th
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as will not admit of delay.

§ 1. The executive power shall be vested in a Pres
United States of America. He shall hold his office dur
of four years, and together with the Vice-President
he same term, be elected as follows:

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a number of electors, equal to the whole number of se



ators and representatives to which the state may be entitled in the congress ; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign, and certify, and transmit sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed. And if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for President ; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by states ; the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors, shall be the Vice-President.* But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the Vice-President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes ; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of President. Neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President ; and the Congress may by law provide for the case of removal, death, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation :

"I do solemnly swear [or affirm] that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

* This mode of election is changed by an amendment to the Constitution.

CONSTITUTION OF THE UNITED STATES.

2. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not hereinafter otherwise provided for, and which shall be established by law. But Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts, or in the heads of departments.

He shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

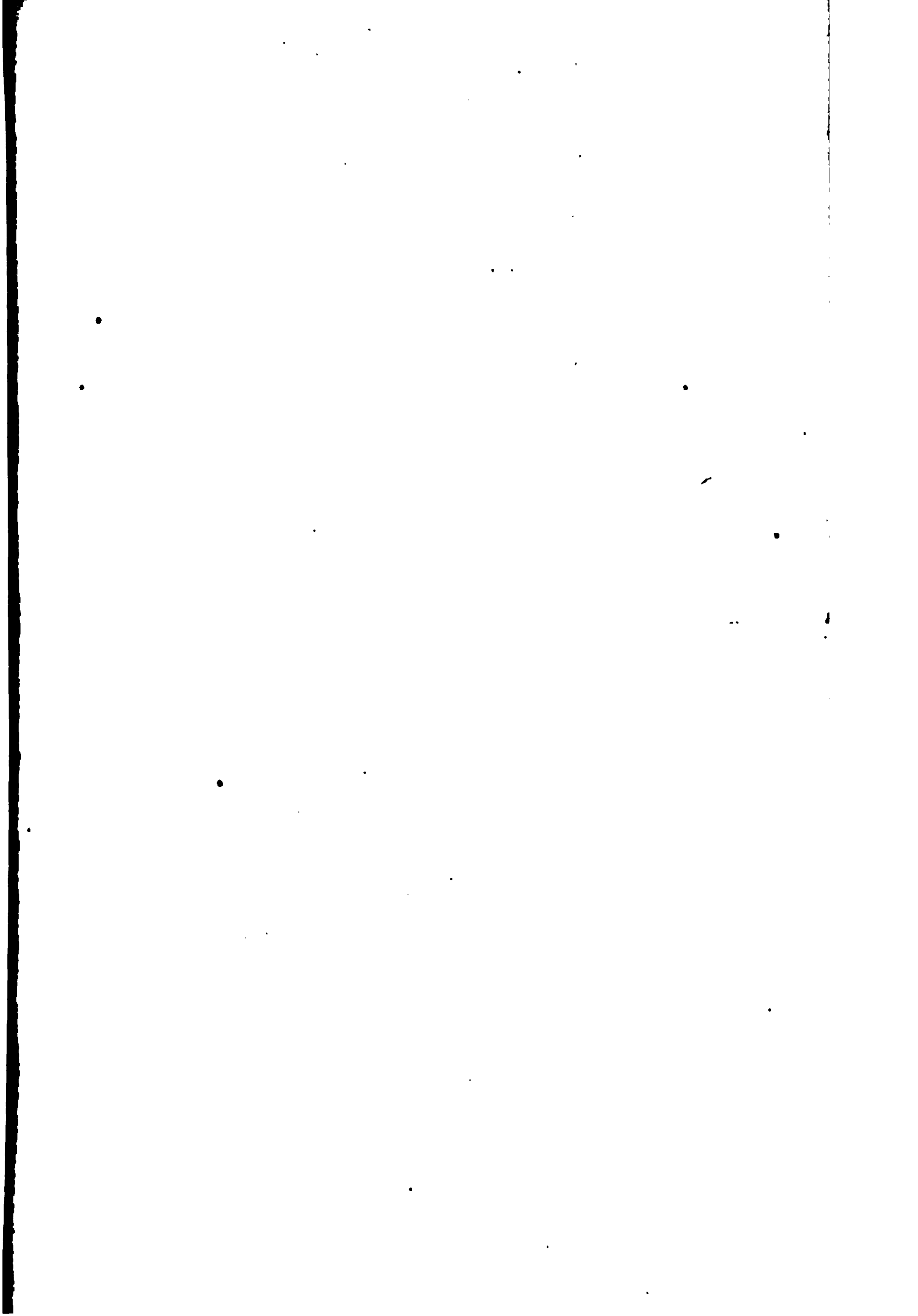
3. He shall, from time to time, give to the Congress information on the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both Houses, or either of them. In case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

4. The President, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

Art. III. § 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of the different States, between a State, or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both of law and fact, with such exceptions, and under such regulations, as the Congress shall make.



The trial of all crimes, except in cases of impeachment, shall be by jury : and such trial shall be held in the state where the said crimes shall have been committed ; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

§ 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

Art IV. § 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

§ 2. The citizens of each state shall be entitled to all privileges and immunities of citizens of the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labor may be due.

§ 3. New states may be admitted by the congress into this union. But no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more States or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property belonging to the United States. And nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

§ 4. The United States shall guarantee to every state in this union, a republican form of government, and shall protect each of them against invasion ; and, on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Art. V. The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions of three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress. Provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article ; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Art. VI. All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution. But no religious test shall ever be required as a qualification to any office or public trust under the United States.

Art. VII. The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

AMENDMENTS.

Art. I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Art. II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

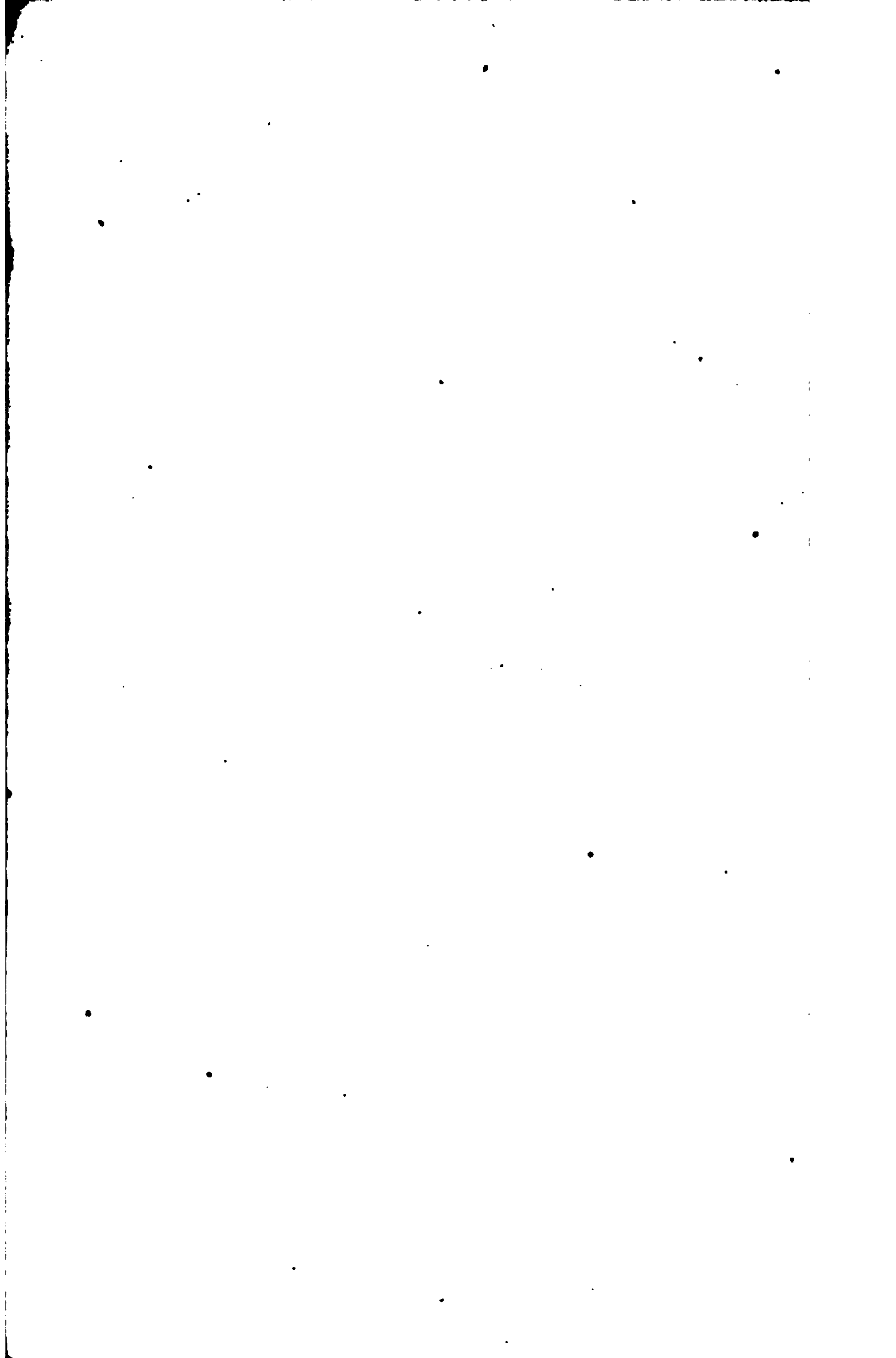
Art. III. No soldier shall in time of peace be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Art. IV. The right of the people, to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. And no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Art. V. No person shall be held to answer for a capital or otherwise infamous crime, on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Art. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

Art. VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.



Art. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Art. IX. The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Art. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Art. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ADDITIONAL AMENDMENTS.

1. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least, shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as vice-president; and in distinct ballots, the person voted for as president; and they shall make distinct lists of all persons voted for as president and of all persons voted for as vice-president, and the number of votes for each; which lists they shall sign and certify and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates; and the votes shall then be counted. The person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed. And if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the House of Representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states; the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed. And if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the vice-president. A quorum for the purpose, shall consist of two-thirds of the whole number of senators; and a majority of the whole number shall be necessary to a choice.

But no person, constitutionally ineligible to the office of President, shall be eligible to that of vice-president of the United States.

2. If any citizen of the United States shall accept, claim, receive, or retain, any title of nobility or honour, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument, of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

CONTINGENT FUND.

See Salaries 2.

CONTINUANCE.

1799. C. 4.

Costs
when to be
paid for
continu-
ance.

I. § 5. Whenever it shall be the opinion of the court that the party praying a continuance shall not obtain it without payment of all costs attending the same, the whole of these costs shall be paid before the continuance is granted, and the party paying such costs shall not be entitled to recover them, although the judgment of the court should finally be in his favour.

1785. C. 2.

Continu-
ance how
to be ob-
tained.

II. § 3. It shall not be lawful for any court to grant a continuance of any cause therein depending but by consent of both parties, or on cause shown by affidavit filed, which cause shall be held sufficient in law for the said continuance.

See Abatement 8. Practice 16.

CONVEYANCES OF LANDS AND CHATTELS.

See Deeds. Slaves 44, 50, 51, 52, 83. Grants 3, 4. Mortgages 1. Partition 1. Taxes 60, 61, 62, 63.

COOPERS.

See Inspectors 19.

CORONERS.

1777. C. 8.

I. § 4. Every county court in this state shall and they are hereby empowered to appoint two or more coroners within their county, if they shall be of opinion that more than one will be necessary.

1779. C. 5.

When to
act as she-
riff.

II. § 2. In case at any time there shall be no person properly qualified to act as sheriff in any county of this state, then it shall and may be lawful for the coroner of the said county, and he is hereby required to execute all process/civil or criminal, lawfully issuing, or judgments, orders; or sentences, of any courts within the same, until some person shall be appointed, properly qualified as aforesaid, to act as sheriff in said county: and such coroner shall be under the same rules and regulations, and subject to the same fines and forfeitures as the sheriffs are by law for neglect or disobedience of the duties aforesaid.

See Burials 1. Claims 5. Confiscations 11. Constables 10. Execution 3, 4. Fees 6, 19. Members of Assembly 26. Sheriffs 1, 9. Slaves 58. Witnesses 6.

Coroners

Making compensation to Coroners
1826 C19-

Convention

An act-authorizing measures
for ascertaining the will of the people
as to calling a convention

1834-C1 & C2 & C3.

Certs

The actions of a plaintiff's attorney when the damages are found to be less than \$4. The P^ltt not to recover more costs than damages — 1826. C 8

Mode of proceeding ag^t corporations & trustees of public Charities
1877. C 24

C. & S. C. to compel P^lff in ap-
= deals from parties' rights to give
security for costs. 1877. C 295

Def. on motions to be entered on
and given by P^lff for costs
1877. C 46

The land of a def^t debtor to be sold for
the costs p^d by the creditor upon the
finding that the land or ex^{ts} are
fully administered.
1832. C 19-

Atty's fee not to be taxed in cases of
inmate actions unless an issue be
made at - 1836 C 9-

1 Shff & C^l allowed \$3. for every 30 miles
from his residence to the jail where the
arrested & prisoner under process of
return to a C^l of which he is not
Shff or C^l -

2 Shff & C^l must state on his return the
number of miles under oath & then C^l
... to the same - 1836 C 18

CORPORATIONS.

See Deeds 11.

COSTS.

1715. C. 27.

I. § 8. In all actions upon the case for slanderous words, to be sued or prosecuted by any person in the general or precinct courts of this government, after the ratification of this act, if the jury upon the trial of the issue in such action, or the jury that shall enquire of the damages do find or assess the damages under forty shillings, then the plaintiff or plaintiffs in such action shall have and recover only so much costs as damages so given or assessed shall amount unto, without any further increase of the same.

In slander no more costs than damages upon.

1777. C. 2.

II. § 99. In all actions whatsoever, the party in whose favor judgment shall be given, or in case of a non-suit, dismissal or discontinuance, the defendant shall be entitled to full costs, unless where it is or may be otherwise directed by statute.

Costs to be allowed the prevailing party.

See Abatement 1, 4. Accidents, 3. Appeals, 5. Continuance, 1. Fees, 1, 5. Guardian and Ward, 7. Hides, Skins, and Furs, 2. Indictment 8, 10, 11. Inspections, 1. Practice 11, 21, 29. Process, 14. Slaves, 26. Superior Courts, 9. Taxes, 3. United States, 1. Vagrants, 1. Witnesses 7, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21.

COUNCIL OF STATE.

1808. C. 18.

IV. Every councillor of state shall receive the sum of 30 shillings per day for every day he may attend on public business, and 30 shillings for every thirty miles travelling to and from the city of Raleigh on public business as aforesaid, any law to the contrary notwithstanding.

Their Compensation.

See Governor 3, 4, 7, 9. Members of Assembly 11, 12, 29, 37. Oyer and Terminer, 1. Poor, 5. Salaries, 1. Sheriff, 4.

COUNTERFEITING.

1782. C. 15.

I. § 3. If any person shall erase, alter or counterfeit any note or notes of the bank of North-America, he shall be deemed guilty of felony, without the benefit of clergy: And if any president, inspector, director, officer or servant of the said bank shall convert any of the property, money or credit of the said bank to his own use or in any other way be guilty of fraud or embezzlement as

Penalty for counterfeiting bank notes

an officer or servant of the bank, he shall be deemed guilty of felony, without the benefit of clergy.

1784. C. 25.

II. § 2. If any person or persons shall be a second time convicted of uttering or passing in manner aforesaid any such counterfeit bills of credit, lottery tickets or loan office certificates, he or they on such conviction shall suffer death without benefit of clergy.

Penalty
on being a
2d time
convicted

For coun-
terfeiting
certifi-
cates.

III. § 3. Whoever shall, by printing, writing, engraving, or by any other ways or means, counterfeit any of the comptroller's, auditors, commissioner's, colonel's, or any other certificates issued by public authority, or any part, word, or letter of the same, with an intention to defraud or deceive, or shall alter or deface any such certificates with an intention to change the value or denomination thereof, or shall knowingly pass, or offer to pass, or present as a voucher, any counterfeit likeness of such certificates being thereof lawfully convicted, shall suffer the same pains and penalties as are by law inflicted on persons convicted of counterfeiting the bills of credit of this state.

1811. C. 1.

IV. § 8. If any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any bill or note, in imitation of, or purporting to be a bill or note issued by order of the president and directors of the state bank of North Carolina, or any order or check on the said bank or corporation, or any cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the president and directors of the state bank of North Carolina, or any order or check on the said bank or corporation, or any cashier thereof; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any false, forged, or counterfeited bill or note, purporting to be a bill or note issued by order of the president and directors of the state bank of North Carolina, or any false, forged, or counterfeited order or check upon the said bank or corporation or any cashier thereof, knowing the same to be falsely forged or counterfeited; or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered bill or note, issued by order of the president and directors of the state bank of North Carolina, or any falsely altered order or check on the state bank or corporation, or any cashier thereof, knowing

For coun-
terfeiting
state bank
notes.

Passing
forged
notes, &c.

the same to be falsely altered with intention to defraud the said corporation or any other body politic or person, every such person shall be deemed and adjudged guilty of felony ; and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a period not less than three years, nor more than ten years ; or shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars ; and the operation of this section shall be without limitation of time.

C. 11.

V. § 2. If any person shall knowingly and designedly, by means of any forged or counterfeit paper in writing or in print, or by any false token or other false pretence or pretences whatsoever, obtain from any person or persons or corporation within this state, any money, goods, property, or other thing of value, or any bank note, check, or order for the payment of money issued by or drawn on any bank or other society or corporation within this state, or any of the United States ; or any treasury warrant, debenture, certificate of stock, or other public security ; or any order, bill of exchange, bond, promissory note, or other obligation, either for the payment of money, or for the delivery of specific articles, with intent to cheat or defraud any person or persons or corporation of the same, shall be held and deemed guilty of fraud and deceit, and being thereof legally convicted in any court of competent jurisdiction, such offender or offenders shall be punished by fine and imprisonment not exceeding twelve months, putting in the pillory, public whipping not exceeding thirty-nine lashes on his or her bare back, all or any of them at the discretion of the court, due regard being had to the nature and circumstances of the offence.

VI. § 3. If any person or persons shall make or cause to be made, any counterfeit similitude or likeness of a Spanish milled dollar, English guinea, or any foreign coin of gold or silver, which is in common use and received in the discharge of contracts by the citizens of this state, or shall utter or pass the same, knowing it to be counterfeit, and shall be legally convicted of either of the said offences in any superior court of law of this state, the person or persons so found guilty shall on the first conviction receive thirty-nine lashes on his or her bare back, and on the second conviction of the above described offences, or either of them, shall receive thirty-nine

Obtaining money, &c. by forged papers and false pretences.

Counterfeiting foreign coin, or passing it.

lashes on his or her bare back, and be imprisoned for a length of time not exceeding twelve months, and be branded on the right cheek with the letter C.

For hav-
ing imple-
ments for
counter-
feiting.

VII. § 4. If any person or persons shall have in his or their possession any instrument or instruments for the purpose of making any counterfeit similitude or likeness of a Spanish milled dollar, English guinea or other foreign coin, made of gold or silver, which is in common use and received in discharge of contracts by the citizens of this state, and shall be duly convicted thereof in any superior court of law of this state, the person or persons so offending shall receive thirty-nine lashes on his or their bare back, and be further liable to be fined at the discretion of the court in the sum of five hundred dollars, and be imprisoned not more than twelve months.

See Tobacco 6.

COUNTY COURTS.

1777. C. 2.

May ad-
journ from
day to day.

I. § 58. If the business of any of the said courts cannot be determined on the day of the term, the justices may adjourn from day to day, not exceeding six days, at the end of which time the causes and matters which may be depending before them, and not then finally determined, shall be continued to the next succeeding term.

Jurisdic-
tion.

See par.
IV.

II. § 61. The justices of the said county courts of pleas and quarter sessions, or any three of them, shall and may take cognizance of, and are hereby declared to have full power and authority and jurisdiction to hear, try, and determine all causes whatsoever at the common law, within their respective counties (perjury and such felony and criminal causes where the judgment upon conviction shall be for the loss of life, limb, or member, excepted) and all petit larcenies, assaults, batteries, and trespasses, breaches of the peace, and other misdemeanors of what kind soever, of an inferior nature, and all actions of detinue, trover, and on penal statutes, suits for filial portions, legacies, and distributive shares of intestates' estates, and other matters relating thereto.

Suits in
the late
courts may
be proceed-
ed on by
these.

III. § 91. All writs and other process, and all suits and proceedings whatsoever, issued, granted, or prosecuted in any of the said late courts, wherein judgment hath been entered or decree made, shall and may be taken cognizance of by the courts of the respective counties by this act established; and such courts may respectively award execution, or other necessary process, on such judgment

County Courts have power to require
parties to produce books or writings
in their possession &c &c.

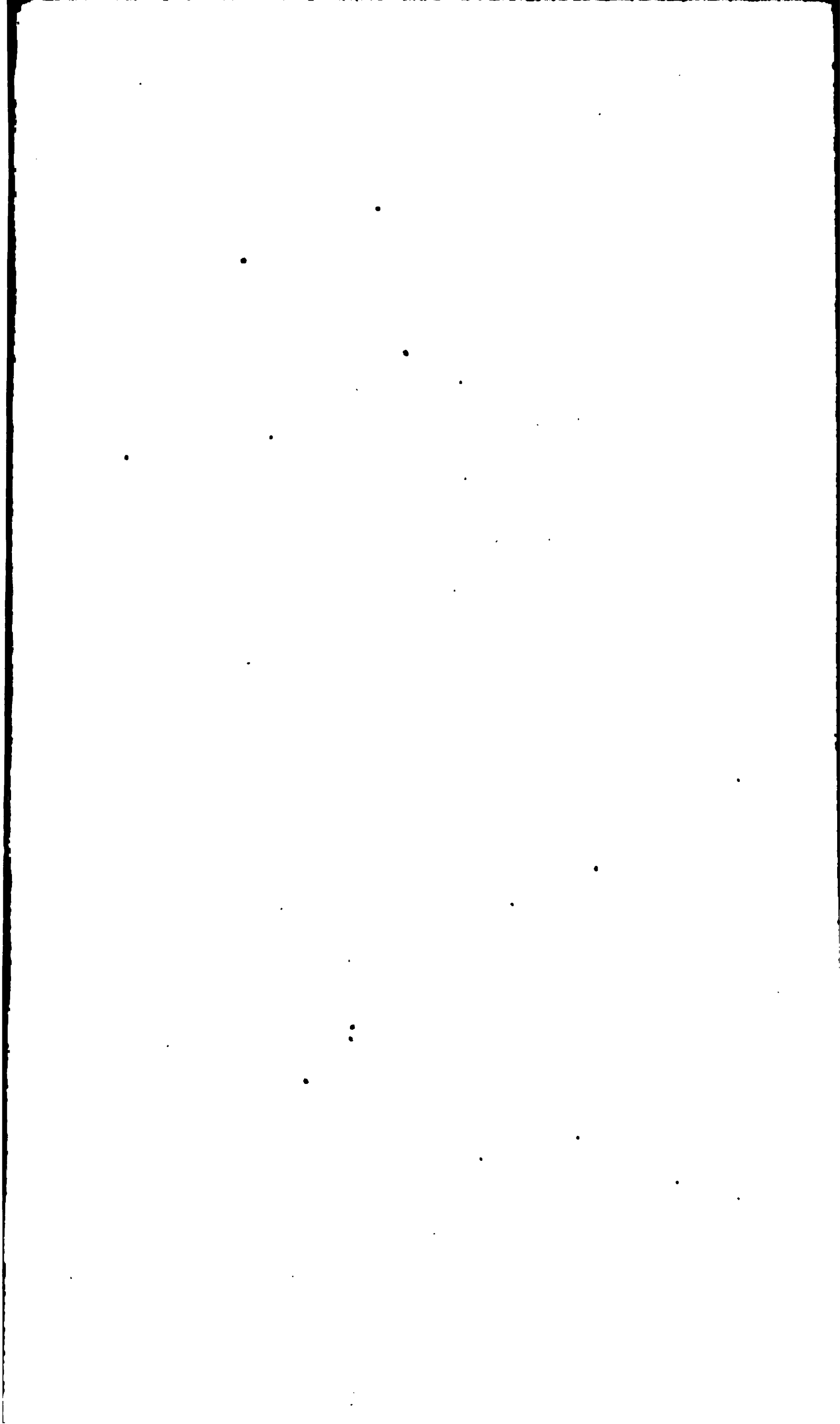
1828 C7.-

County Court shall not grant license
to retail &c. to any but free white
people, whose good moral character
shall be shown to be the virtues who
have known the applicant for at least
one year 1828 C10.

County Court (a Majority of Justices
being present) to regulate the fees of
goalers 1828 C11

County Court (a Majority of the Justices
being present) may dispense with Juries
in one or more Courts during the year -
and a Majority required to rescind same
can do so as ~~at~~ above 7
1828 C15

C.C. may fix or alter the place of
holding separate elections
1870 C35 per
1832 C18



or decree, and proceed in the same manner, as if such suits had been originally commenced in the county courts by this act established.

IV. Anson court is held 2d Monday in January, April, July, October.

Ashe, on the Monday following the court of Wilkes.

Beaufort, 4th Monday March, June, September, December.

Bertie, 2d Monday February, May, August, November.

Brunswick, 1st Monday February, May, August, November.

Bladen, 1st Monday March, June, September, December.

Buncombe, 1st Monday January and July. and 1st Monday after the 4th Monday in March and September.

Burke, 1st Monday after the 4th Monday January, April, July, October.

Cabarrus, 3d Monday January, April, July, October.

Craven, 2d Monday March, June, September, December.

Columbus, 2d Monday February, May, August, November.

Carteret, 3d Monday February, May, August, November.

Chowan, 2d Monday March, June, September, December.

Cumberland, 1st Monday March, June, September, December.

Currituck, last Monday February, May, August, November.

Camden, 1st Monday February, May, August, November.

Castwell, 2d Monday January, April, July, October.

Chatham, 2d Monday February, May, August, November.

Duplin, 3d Monday January, April, July, October.

Edgecombe, 4th Monday February, May, August, November.

Franklin, 2d Monday March, June, September, Dec.

Green, 2d Monday February, May, August, Nov.

Guilford, 3d Monday February, May, August, Nov.

Gates, 3d Monday February, May, August, Nov.

Granville, 1st Monday February, May, August, November.

COUNTY COURTS.

Halifax, 3d Monday February, May, August, Nov.

Haywood, 3d Monday March, June, September, December.

Hertford, 4th Monday February, May, August, November.

Hyde, last Monday February, May, August, Nov.

Johnston, 4th Monday February, May, August, November.

Jones, 2d Monday February, May, August and November.

Iredell, 4th Monday March, June, September, December.

Lincoln, 3d Monday January, April, July, October.

Lenoir, 1st Monday January, April, July, October.

Martin, 3d Monday March, June, Sept. December.

Mecklenburg, 4th Monday February, May, August, November.

Montgomery, 1st Monday January, April, July, Oct.

Moore, 3d Monday February and August, and in May and November, on the Wednesday of each Superior Court term.

Northampton, 1st Monday March, June, September, December.

Nash, 2d Monday February, May, August, Nov.

New Hanover, 2d Monday February, May, August, November.

Onslow, 2d Monday January, April, July, October.

Orange, 4th, Monday February, May, August, November.

Pasquotank, 2d Monday February, May, August and November.

Perquimons, 2d Monday February, May, August, November.

Pitt, 1st Monday February, May, August, November.

Person, 2d Monday February and August, and the Wednesday after the 2d Monday in May and November.

Robeson, 4th Monday February, May, August and November.

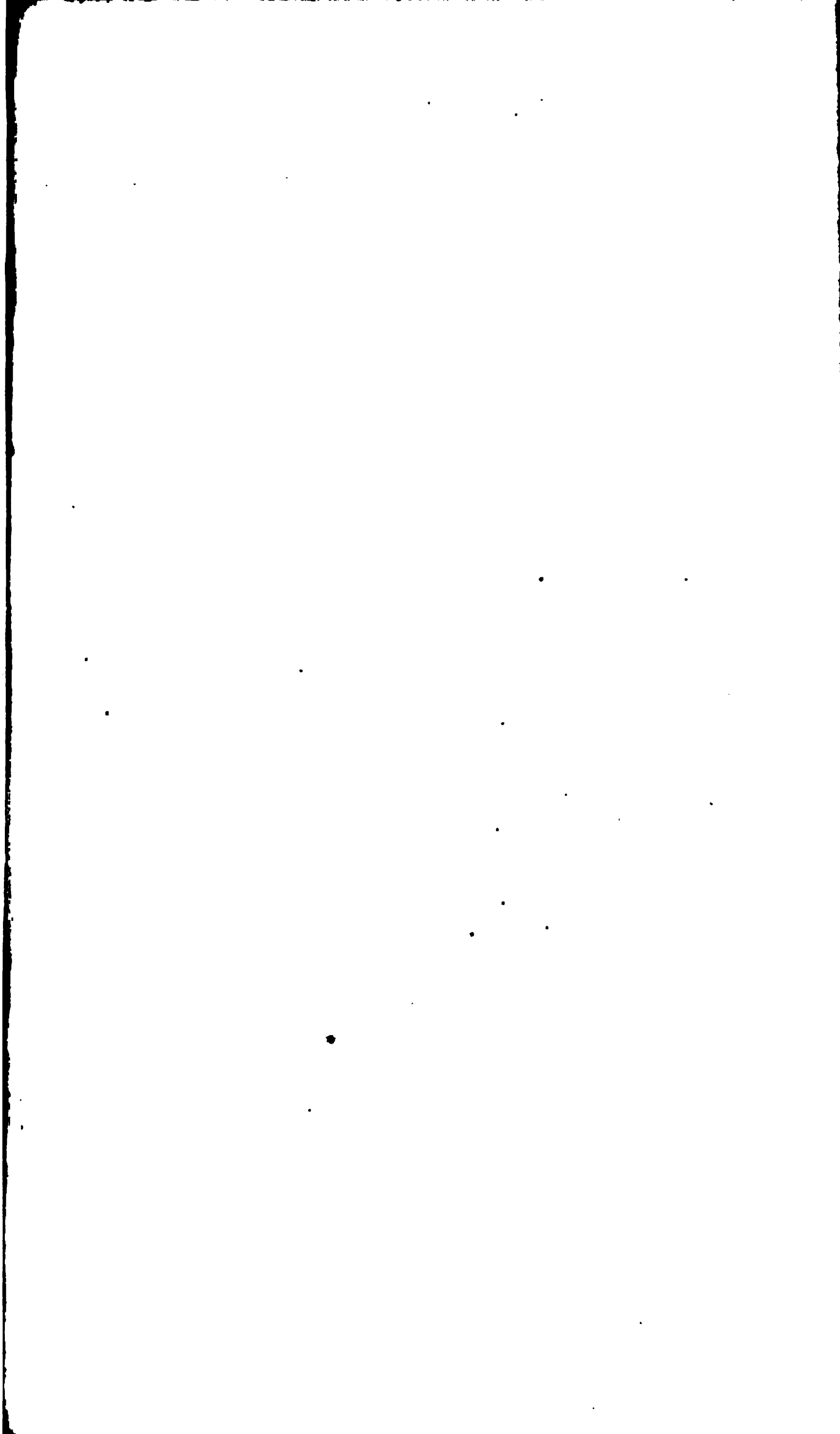
Rowan, 3d Monday February, May, August, Nov.

Rutherford, 2d Monday January and July, and the 3d Monday after the 4th Monday in March and September.

Randolph, 2d Monday May, August, November, Feb.

Richmond, 3d Monday March, June, September, December.

Rockingham, last Monday February, May, August, November.



Surry, 2d Monday February, May, August November.
 Stokes, 2d Monday March, June, September, Dec.
 Sampson, 3d Monday February, May, August November.

Tyrrel, 2d Monday January, April, July, October.
 Warren, 4th Monday May, August, November, February.

Wake, 3d Monday February, May, August, November.
 Washington, 3d Monday March, June, September, December.

Wayne, 3d Monday February May, August, Nov.
 Wilkes, the Monday following 4th Monday January, April, July and October.

1804. C. 8.

V. § 1. If any person, under any pretence whatever shall bring a suit in any of the courts of this state, for any sum under thirty pounds, which is cognizable before a single justice, unless the principal and interest shall exceed the sum of thirty pounds, that this act may be plead in abatement thereof. No suit to be bro't in court for less than 30 pounds.

1808 C. 24.

VI. § 1. The several county courts of pleas and quarter sessions within this state shall annually, at the same court at which the county taxes are laid, lay such farther tax on the polls and other subjects of taxation, as shall, in the opinion of the court be sufficient to pay off the expences to be incurred for the guarding the prison in said county, and of removing persons to other counties, which shall be collected in like manner as other county taxes and paid to the trustee. To lay additional taxes.

VII. § 2. Hereafter all claims for guarding of prisons and conveying of persons, shall be allowed by the court of the county in which such prison is situated, or from which any person is removed, and paid off by the county trustee out of the monies levied for such purpose, any law to the contrary notwithstanding.

1809. C. 19.

VIII. § 1. Should it at any time hereafter so happen that any of the officers above named, (*viz. sheriffs, clerks, entry-takers and registers*) shall be permitted to officiate as such, and to discharge any of the duties of their respective appointments without having first qualified and given bond with security for the due and faithful performance of them as is required by law, the justices of the peace who sat on the bench or were in court at the time of the appointment of the officer or officers so offi- Sheriffs

ciating as aforesaid in virtue and under color of his appointment, but without qualifying or giving bond, shall be considered bound to all intents and purposes, and they and every of them are hereby declared to be bound as the securities of the sheriff or other officer or officers thus acting or availing himself of such his appointment without having first given bond for the faithful performance of his duty in office, in the same degree and in the same manner as though they had been formally bound by entering into and executing bonds with and as the securities of such officers; and they shall and may be proceeded against as is already provided by the act first above referred to (1763, c. 16).

1810. 10.

IX. § 2. In all cases where certioraries are directed to the county courts, the clerk of the court is hereby required to take security, in the same manner, and under the same regulations, that security is taken on appeals from the county to the superior court.

1815. C. 11.

X. § 1. Whenever any penalty or forfeiture created by any act of the congress of the United States, hath been or shall hereafter be incurred by any person within this state, and by such act of congress, cognizance of such penalty or forfeiture, hath been or shall be given to the courts of record of the several states, then and in every such case the courts of law of this state are hereby declared to have and shall hereafter have jurisdiction of the same, and full power and authority to try and give judgment in all proper actions for the same, in the same manner as if such penalty or forfeiture had been created by an act of the general Assembly of this state.

XI. § 2. This act shall be in full force and virtue after the passage thereof.

1816. C. 3.

XII. § 1. In future in the appointment of any sheriff, coroner, county trustee, clerk of the county court, register and county attorney, there shall be present a majority of the acting justices of the peace of the county, and no person shall be deemed to be duly elected without receiving a majority of the votes of the justices present.

XIII. § 2. In the appointment of any ranger, constable, or other county officer, not named in the first section of this act, there shall be present at least seven justices of the peace of the county, and no person shall be deemed duly elected without receiving a majority of the

Justices present : Provided, that nothing in the first section of this act, shall extend to the counties of Surry, Stokes, Granville, and Burke.

See Apprentices 1, 3. Attornies 1, 4. Bridges 1, 2. Cattle, Horses, and Hogs, 5, 6, 23. Claims 4, 5. Collectors of Arrears 5, 8. Commitment, 1. Confiscation 11, 14. Constables 1, 6, 7, 11, 13. Continuance 1, 2. Coroners, 1. County Trustee 1, 2, 4, 5. Deeds, 7. Depositions 1, 2. Discontinuance 2, 3. Entries 8, 9, 12, 15, 16, 24, 28, 29, 42, 43, 54. Entry-Takers 5, 8, 13. Escape, 1. Execution, 1. Fairs 1, 2. Fees, 2. Feme Covert 1, 2. Fences, 4, 5. Ferries 2, 3, 4, 5, 6. Fish 1, 2, 3. Foregners 1. Gaming 3. Grants 2, 3, 5, 6. Guardian and Ward 3, 4, 8, 9, 11, 14, 16, 17. Idiots, 1. Insolvent Debtor, 3. Inspections 1, 2, 4, 21, 26, 27. Iron Works 1, 2, 3. Jury 2, 4, 7, 11, 12, 17, 22, 24. Justices 15, 25, 26. Landings, 1. Lands 7, 14, 15, 16. Law Books, 1. Marriages, 6. Members of Assembly 17, 23, 34. Mills 2, 4, 5. Money, 1. Names, 1. Ordinaries 2, 5. Orphans 1, 2, 3, 4. Overseers of Roads, 1, 4, 9. Partitions, 1. Patrols, 6. Physic, 1. Poor 13, 17, 27, 28. Powers of Attorney 1, 2, 3. Prisoners, Prisons and Stocks 1, 2, 8, 9, 10, 11, 17. Process 19. Processioners 3, 4, 5, 6, 7, 11, 13. Quakers 2. Recognizances and Fines 3. Rivers and Creeks 4. Roads 1. Seals 2. Servants 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 20, 21. Sheriffs 2, 3, 6, 8, 11, 13. Slaves 1, 7, 8, 11, 21, 27, 28, 38, 53, 61, 62, 64, 68, 70, 73, 75. Strays 1, 6, 7, 11. Superior Court 30. Sureties 1. Taxes 3, 5, 6, 11, 13, 14, 15, 33, 38, 51, 94. Taxes for County Uses 2, 4, 5, 7, 9. Time 2. Tobacco 1, 2, 4, 10, 11, 12, 13, 14, 15. Vagrants 1, 2. Vice and Immorality 9. View 1. United States Ways 2. Weights and Measures 6. Widows 1, 2, 3, 9. Wills 1, 10.

COUNTY TRUSTEE.

1777. C.36.

I. § 3. The justices of the several county courts in this state, shall, during the sitting of their respective courts to be held next after the first day of July, yearly and every year, appoint one good and proper person to act as a trustee for one year, for the purposes herein mentioned, which appointment shall be entered on the records of the said court; and the person so appointed, after giving bond and sufficient security for the faithful discharge of his duty, agreeably to the directions of this act and the orders of the court, is hereby directed and shall have full power and authority to sue for, recover and receive from the late sheriff of the county, and from all other persons, all monies which may be in their hands due and payable to and for the use of such county, and shall also receive from the collectors all such sums of money as they shall be liable for in virtue of this act, which monies the trustees respectively shall apply as the county court may direct, and to no other use or purpose whatsoever.

Powers.

II. § 4. In case of the death, disqualification, neglect or refusal to act of any of the trustees by this act to ap-

Vacancy.

pointed, the court of the county where such death, disqualification, neglect or refusal shall happen, may proceed to appoint one other good and proper person to fill up such vacancy until the next annual appointment, under the rules and regulations before described: and such trustee, during his continuance in that appointment shall have the same powers and authorities which by this act are given to other county trustees; and the county courts in this state are hereby respectively invested with full power to direct the application of all monies arising by virtue of this act, to and for the purposes herein mentioned, and to any other good and necessary purposes, for the use of the county, and may also allow the county trustee a reasonable salary out of the same for his services.

Neglect
of duty.

#21. scaled

III. § 5. In case any justice of the peace or trustee of any county in this state shall neglect or refuse to do and perform the several and respective duties by this act required, or any of them, he shall forfeit and pay for every neglect or refusal the sum of five pounds, to be recovered by action of debt in the name of the governor or commander in chief for the time being, to and for the use of the county where the offence was committed.

1792: c. 3.

Settle-
ment with
court.

IV. § 1. At the first court in each county in this state after the first day of June in every year, the county trustees shall make settlements with the court, in which they shall render an account of their receipts and expenditures under the penalty of two hundred pounds, to be recovered by action of debt.

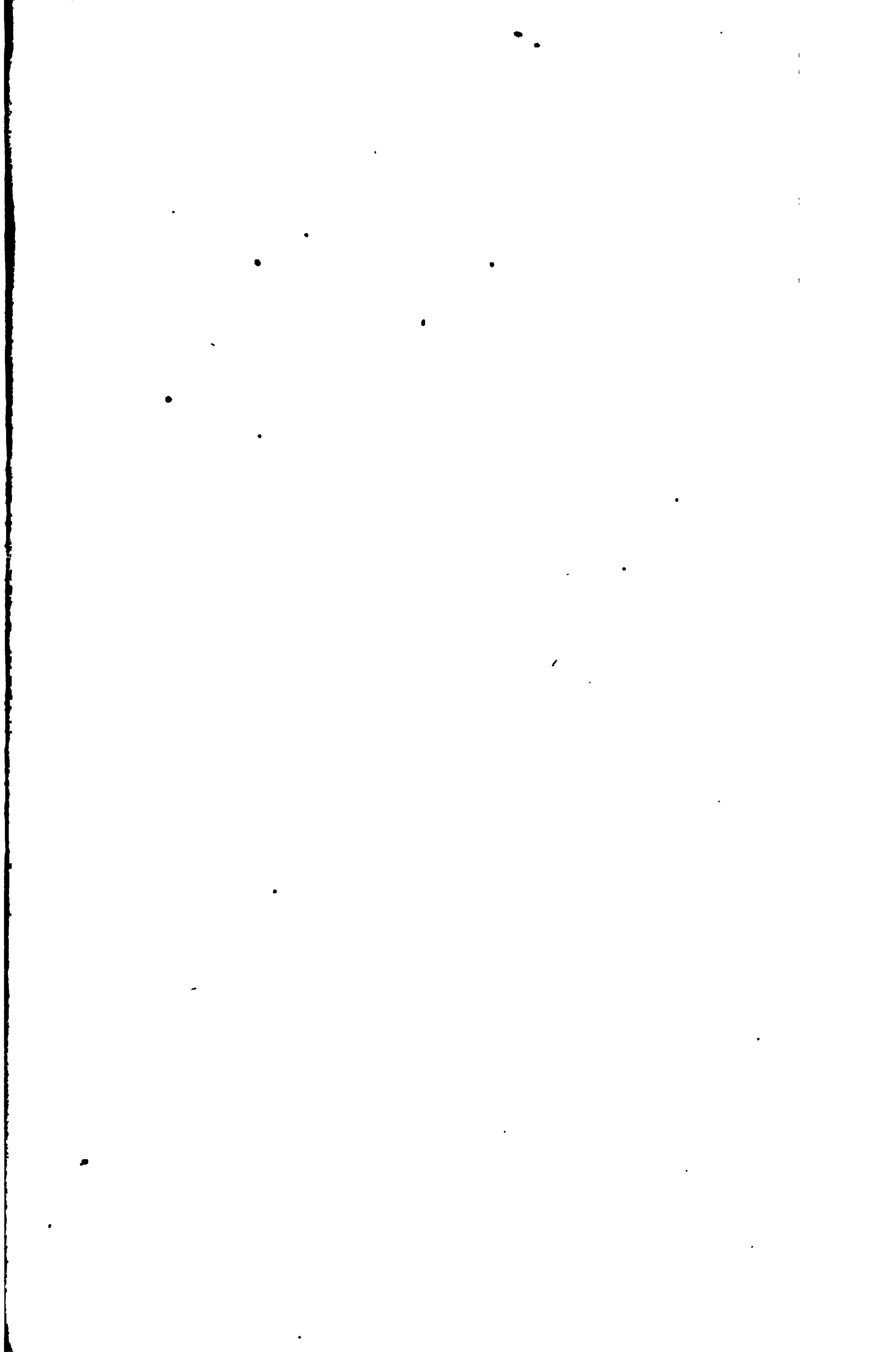
1793: c. 14.

V. § 2. The county trustee shall only settle with the sheriff or collector of public taxes according to number, beginning at the lowest number, (*see Taxes for County Uses VII*), and where there is no trustee in the county, the county court may and shall proceed to settle with their sheriff or collector of public taxes in like manner.

1795 C. 12.

To collect
money for
strays.

VI. § 1. The trustee in each county in this state shall collect from those who have or may enter estrays in their counties respectively, all sums that are or may be due for any stray or strays entered under the same rules as they are to collect any other monies to them to be paid; and on all such collections they shall be entitled to retain six per cent. and if any person who has or may enter strays, shall fail to account for the monies aforesaid, it shall be the duty of the county trustee to commence suit for the same.



1808. C 21.

VII. § 1. The county trustee shall annually call on ^{To call on} the sheriffs of their respective counties, for the payment ^{sheriffs.} of all monies that may be in their hands due the trustees; and if any sheriff shall fail to account for and pay the same, then it shall be the duty of the said trustees, at the first court held for their respective counties after the first day of February in each and every year, to move for judgment against such sheriff failing to settle as above specified, ten days notice being previously given, and the court shall thereupon award immediate execution for the full amount of the tax list furnished said sheriff, or for such part as shall appear to be due; and any sheriff against whom judgment is so obtained, shall, over and above his arrearages, forfeit and pay the sum of fifty pounds, to be applied to the use of the county; and if any trustee shall fail to comply with the requisites of this act, he shall not only be liable for the monies he may then or hereafter have in possession, but shall be subject to the penalty of fifty pounds, to be recovered by suit in any court of record, one half to the informer and the other half to the use of the county.

VIII. § 2. The sheriffs of each and every county in this state shall be subject to the same rules, regulations, and penalties, in their settlement with the acting wardens of their respective counties, as are prescribed for their settlements with county trustees, any thing to the contrary notwithstanding.

Sheriffs.

See Clerks of the Superior and County Courts, and Clerks and Masters in Equity. July 21, 24. Justices 4. Poor 20. Strays 6. 10, 11, 12. Taxes 64. Taxes for County Uses 5, 10. Vice and Immorality 6.

COUNTY WARDENS.

See Poor Taxes for County Uses. Sheriff.

COURTHOUSES.

See Prisoners. Prisons, and Stocks 1, 8.

COURT OF PATENTS.

Superior Courts 10, 20.

CREDITORS.

[Administrators and Executors.]

CRIMINALS.

1715 C. 16.

I. § 1. No person within this state shall be committed to prison for any criminal matter until examination thereof be first had before some magistrate, which magis- ^{Not to} ^{commit be.} ^{fore exam-} ^{ination.}

DEBTORS.

trate shall admit the party to bail, if bailable, and shall record the examination of the party, and also the full matter given in evidence both against him and for him, with all concurring circumstances, and shall take recognizance, with good and sufficient securities *to the state* for the informer to appear and prosecute as the laws of this state do direct, and likewise for all evidence for the state to appear and give evidence against the criminal at the next court where the matter is cognizable ensuing such examination, which examination and recognizances so taken shall be returned to the office of the court wherein the matter is to be tried, under the penalty of five pounds to every neglect, one half to the use of the state, and the other half to him or them that shall sue for the same to be recovered in any court within this government by action of debt, bill, plaint or information, wherein no essoin, injunction or wager of law shall be allowed or admitted of. See Indictment 7. Prisoners, Prisons, and Stocks 12, 13. Process 4, 9. Quakers, 1.

CURRENCY OF THE UNITED STATES.

1809 C. 17.

U. S. currency to be recognized.

I. § 1. Hereafter, the currency of the United States shall be recognized as the lawful currency of this State: And it shall and may be lawful for the records, and all other papers and proceedings in this state, to be kept in dollars and cents: provided that nothing herein expressed, shall operate to prevent any records, papers, or proceedings from being kept in the former currency of this state.

CURSING AND SWEARING.

See Vice and Immorality.

DEBTORS.

1796. C. 32.

Debtors, about to remove how to proceed.

I. § 1. When any person who has resided six months or more in any county in this state, shall be about to remove out of the same either by land or water, it shall be his duty to advertise his intention of removal in at least three public places of the county ten days previous to his removing, one of which advertisements shall be set up at the door of the justice of the peace to whom such person may intend to apply for a certificate of his having so advertised, or at such other public place on the premises of the said justice as he may direct; and if any person or persons shall remove, or knowingly assist to remove any debtor or debtors out of the county in which he shall have

Criminal

In all prosecutions def^t allowed
the aid of counsel in selecting a jury -
1826 C. 9 -

The remedy given by the act of 1820
as to persons removing debtors out of
the county, ~~extended to the~~ Rule
in re ap^t B. N. & Adams.
1831 C. 49 -

x Ser 4 Kent: Com: 424-83 Dale Ref 486

resided for the space of six months or more, who shall not have advertised himself in the manner as by this act required, and shall have procured a certificate of the same, from and under the hand of some justice of the peace of the county, then such person so removing, or knowingly assisting to remove such debtor, shall be liable to pay all debts which the person so removed might justly owe in the county from which he was removed, which debts may be recovered by the person legally entitled thereto by an action on the case, provided suit shall be commenced for the same within twelve months from the time the proof of such removal shall come to the knowledge of the person to whom the debt was so due.

See Collectors of Arrears, 4. Members of Assembly 9, 38. Prisoners, Prisons and Stocks, 12, 13, 15.

DECLARATION

See Attornies, 7. Practice 2, 12, 13, 21.

DEEDS.

1715. C. 38.

X I. § 5. No conveyance or bill of sale for lands (other than mortgage) in what manner or form soever drawn, shall be good and available in law, unless the same shall be acknowledged by the vendor, or proved by one or more evidences upon oath, either before the chief justice^a for the time being, or in the court of the precinct where the land lieth, and registered by the public register of the precinct where the land lieth, and that all deeds so done and executed shall be valid, and pass estates in land or right to other estate without livery of seizin, attornment, or other ceremony in the law whatsoever.

^aSee judges superior court L.

What deeds valid.

II. § 7. All deeds and conveyances of land lying within this government, made in foreign parts, which shall be remitted hither and proved before the chief justice or court of the precinct where the land lieth, in manner as before directed, or which shall be personally acknowledged or proved before the chief magistrate of any city, town, or corporation within the king of Great-Britain's dominions, and attestation thereof affixed thereto, or which shall be acknowledged or proved before the governor or commander in chief of any of his majesty's plantations, and attested under the public seal, and registered in the aforesaid office of the precinct where the land lieth, within one year after the arrival of such deeds, shall be good and valid in law to all intents and purposes as if made and executed within this government.

Deeds proved abroad may be registered.

^aSee superior court.

1741. C. 21.

Copies
when evi-
dence.

III. § 3. The Registry of all and every deed of mesne conveyance already registered, or that hereafter shall be registered by virtue of this act, or of 1715, c. 38. or a copy thereof, properly attested by the register, shall and may, where the original deed or mesne conveyance is lost, be given in evidence in any court within this province, in such suit or suits wherein there may be occasion to give registered deed or mesne conveyance in evidence.

1748. C. 4.

of Grants.

IV. § 8. The record of every patent or grant registered in the secretary's office, or the abstracts of them entered in the auditor's office, or the office of the Earl Granville, or exemplifications of them duly proved, shall be as good and valid in law as if the originals were produced, and may be pleaded and given in evidence as well as if the originals were in being.

• 1756. C. 6.

The time
allowed for
registra-
tion.

V. § 2. All deeds and mesne conveyances of lands, tenements and hereditaments hereafter to be made, shall and may, at any time within two years from the respective dates thereof be acknowledged by the granters, their agents or attornies, or proved in manner aforesaid, *that is to say, by one or more of the subscribing witnesses to the same*, and delivered to the registers of the counties wherein they are respectively situated.

Copy when
evidence.

VI. § 3. The registry or copy of the record of any deed or conveyance registered or recorded as mentioned in this act, and attested by the register or clerk, shall and may, where the original deed or conveyance is lost, be given in evidence in any court of record, and shall be held, and is hereby declared to be full and sufficient evidence of such deed or conveyance.

Witnesses may be
summoned
to prove
them.

VII. § 4. The grantee or grantees in any deed made or hereafter to be made, shall and may, at his own expense, on motion to the county court wherein the land by the same granted lies, obtain a summons for any one or more of the subscribing witnesses to such deed, which shall be signed by the clerk, and directed to the sheriff, commanding him to summon such witness to appear at the next county court, and give his evidence concerning the execution of such deed, under the penalty of twenty pounds; and the sheriff shall and is hereby required to execute the same at least five days before the court to which the same is returnable, and make due return thereof, for which summons, service and return, the clerk and

The construction of contingent limitations in deeds or wills -
1827. C) -

sheriff shall be paid the same fees as are allowed on issuing, serving and returning subpoenas in actions; and if any witness to a deed so summoned, shall fail to appear in the return of such summons, the court shall give judgment against him for the penalty aforesaid, which execution may be taken out either against his body or goods, by him or them at whose instance he shall be summoned, unless he show sufficient cause to the next succeeding court for not having appeared to give his evidence.

VIII. § 5. Every register who shall neglect or delay to register any deed or conveyance within two months after the same shall be delivered to him, such register for each and every two months he shall so neglect or delay, shall forfeit and pay the sum of twenty pounds, one half ^{a See penal} to the church wardens for the use of the parish wherein laws and he shall reside, and the other half to him or them who ^{penalties.} shall sue for the same, to be recovered by action of debt with costs.

1770. C 40.

IX. § 7. Whereas many conveyances for lands in the several counties, certified by the register to have been registered; are not to be found in any of the register's books for the respective counties, *it is enacted*; that any person producing to the register of the county whereof he is register any deed of conveyance for lands in the said county, with a certificate thereon endorsed of the same having been duly proved before the inferior court of the said county, or the chief justice or one of the associate justices, shall be entitled to have the same registered, and the register of the said county is hereby required to register the same if such conveyance be not found in the books, notwithstanding such certificate of registration.

1788. C. 23

X. § 1. The governor for the time being shall and may, by and with the consent of the council of state, on application of any person or persons having a deed, grant, or patent for lands in such a predicament, that is to say, *having been recorded in the secretary's office, and the books containing the same now lost or destroyed*, provided that it shall appear to them that such grant, deed, or patent had been fairly obtained, and the requisites of the law fully complied with, to order the secretary to record such deed, grant, or patent; and on such order the secretary is hereby directed to record in his office such deed, grant, or patent for lands so ordered, together with such order; which deed, grant, or patent so recorded, shall be as good and valid in law to all intents and purposes whatsoever,

as if such former records had never been lost or destroyed; and in any controversy at law that may happen in consequence thereof, this act may be given in evidence to support the validity of the record of such deed, grant, or patent.

1798. C. 37.

Corporations how to convey land.

XI. § 4. Any corporation may convey lands by deed of bargain and sale, sealed with the common seal of said corporation, and signed by the president or presiding member or trustee of said corporation, and two members or trustees thereof, in the presence of two witnesses: and such deed, when proved in the usual form prescribed for other conveyances for land, shall be registered in the register's office of the county where the land lies in like manner. Nothing herein contained shall extend to the admission of any power of attorney to registry, which is signed or executed by a feme covert, unless she has acknowledged, in the manner required by law for her passing lands separately and apart from her husband, that she signed the said power freely and without fear or the compulsion of her husband, or any other person whatsoever.

1802. C. 2.

Copies of wills &c. evidence

XII. § 1. In cases where inhabitants of other states, by will or deed, devise or convey property situated in this state, and the original will or deed cannot be obtained to register, in the county where the land lies, or where the property shall be in dispute, that a copy of the said will or deed (after the same has been proved and registered or deposited agreeably to the laws of the state where the persons died or made the same) being properly certified, either according to the act of Congress, passed in May 1790, or by the proper officer of the said state, and the further testimonial of the governor or commander in chief of said state, that the person certifying is the proper officer, or duly authorised by law; that then and in such case the said copy shall be read as evidence in the courts of this state, and shall be admitted in the same manner as a copy from any of the registers or clerks' offices therein.

See Entries 1. Taxes 60, 61 62. 63. Gifts 1. Feme Covert 8.

DEMURRER

See Practice 4, 5, 9, 15, 19, 24. Administrators and Executors.

DEPOSITIONS.

1777. C. 2.

I. § 39. When any person who may be a witness in any cause in any of the said superior or county courts,

Depositions -

The Court before which any suit is may authorize the taking of the deposition, of the Governor, Secretary of State, Treasurer, Comptroller - Justices of the Supreme or Sup Court, Atty Genl. or Solicitor; to be read in evidence in such suit -
Criminal cases excepted -
Depositions taken in any suit at law, the Court to direct the Clerk to file upon such deposition under the same rules as may obtain in Chancery as 1828. C 24,

Depositions to be read before a Justice may be taken by a Justice of the County where the act happens to be. Justice may summon such sub^s to attend before him. 1871. 1872. C 9.

in suits removed from the Sup^r Ct. of one C? to another ~~state~~ com missioners to take depositions may issue from either of the Courts - 1872. C 8 -

shall reside out of this state, or shall, by reason of age, bodily infirmity, or any other cause, be incapable of attending to give his testimony in court, oath thereof being made, or the truth of the matter otherwise appearing, the judge or judges of the court wherein such suit is depending, shall and may by commission empower such and so many persons as may be thought necessary to take and receive the deposition of such witness, which being duly taken and returned as hereinafter is directed, shall be received as legal testimony.

When and how to be taken.

II. § 40. The party praying such commission shall give such notice to the adverse party of the time and place when and where such commission is to be executed as the court shall think proper, and the adverse party shall have power to cross examine any witness whose deposition shall be so taken, and all depositions otherwise taken than is herein directed, unless by consent of parties, shall be void to all intents and purposes.

III. § 41. If any person who may be a witness in any cause depending in any of the said courts, shall be under a necessity of leaving this state before such cause is to be tried, or even before such cause shall be at issue, upon oath thereof made before any of the justices of the said courts, such justice may order the clerk of the court where such cause is depending, to issue a commission to one or more persons to take the deposition of such witness, notice being first given to the adverse party of the time & place when and where such deposition is to be taken, at least ten days previous to the time of executing such commission, which deposition, when returned taken in manner aforesaid, shall be received as legal evidence.

Notice to be given.

1803. C. 10.

IV. § 1. It shall and may be lawful to take the depositions of persons in a dangerous state of health, or about to leave the state, under the rules and regulations prescribed by 1777, c. 2, § 41, on giving to the adverse party or parties the following notice of the time and place of taking the same, to wit: in all cases where he, she or they do not reside, or is or are not more than ten miles distant, three days; in all other cases, one day more for every additional ten miles which the said party or parties may be distant from the place of taking said depositions.

Sick persons.

See Practice 25, 27. Witnesses, 4. Sheriffs, 16.

DEPRECIATION.

See Equity, 2. Money 3, 5, 6. Tender 2, 3.

DEPUTIES.

See Clerks, 5. Entry-Takers and Surveyors, 4. Inspections, 28. Members of Assembly, 18. Poor, 1. Process, 14. Sheriffs 5, 6, 14. Taxes 42, 53, 54, Witnesses, 9.

DESCENTS.

1784. C. 22.

I. § 2. When any person shall die intestate, seized or possessed of, or having any right, title or interest in and to any estate or inheritance of land, or other real estate in fee simple, his or her estate of inheritance shall descend in the following manner to wit, to all the *children*, share and share alike, as tenants in common, in severalty, and not as jointenants, other than such son or daughter as shall have lands settled on him or her by his or her deceased parent, in fee simple, equal to the share which shall descend to the other children respectively ; and in case any son or daughter shall have lands settled on him or her, by his or her deceased parent, not equal to the share which shall descend to such children respectively as aforesaid, then so much of the land or other real estate of the deceased shall descend to such son or daughter so provided for, as will make the estates of all the children entitled by this act to the inheritance, as nearly equal as can be estimated ; and each and every of the children of the deceased so inheriting, shall have, hold and enjoy in the land so descending, such estate as the said deceased had and held in the same at the time of his death. If any child of such intestate shall have died in the life-time of the parent, his or her lineal descendants shall be held to represent their parent, and shall stand in the same place he or she would have done, and shall be entitled to the same portion of the estate of their grand-father or grand-mother, as their father or mother would have been entitled to if living, such part or portion to be divided amongst them as tenants in common, in severalty, and not as joint-tenants.

Lineal.

Equality.

Representation.

II. § 8. If any person dying intestate, should at the time of his or her death, be seized or possessed of, or have any right, title or interest in or to any estate or inheritance in lands or other real estate, in fee simple, and without issue, such estate or inheritance shall descend to his or her brother and sisters, as well those of half blood as those of whole blood, to be divided amongst them equally, share and share alike as tenants in common, and not as jointenants ; and each and every of them shall have, hold and enjoy, in their respective parts or portions, such estate or inheritance as the intestate died seized of

Collateral.

possessed of, or entitled unto : Provided always, that when the estate shall have descended on the part of the father, and the issue to whom such inheritance shall have descended, shall die without issue, male or female, but having brothers or sisters of the paternal side of the half blood, and brothers or sisters of the maternal line also of the half blood, such brothers and sisters respectively of the paternal line shall inherit in the same manner as brothers and sisters of the whole blood, until such paternal line is exhausted of the half blood, and the same rule of descent and inheritance shall prevail amongst the half blood of the maternal line under similar circumstances, to the exclusion of the paternal line : Provided also, that if any brother or sister of the intestate shall have died in the life time of the intestate, leaving issue, male or female, such issue shall represent their deceased parent, and stand in the same place he or she would have done if living, and shall be entitled to the same part or portion of the estate of his or their uncle or aunt, as his or their father or mother would have been entitled to if living, such part or portion to be divided amongst such representatives, if more than one, equally, share and share alike, as tenants in common, and not as jointenants,

III. § 4. The same rules of descent shall be observed in lineal descendants and collaterals respectively, when the lineal descendants shall be further removed from their ancestor than grand-children, and when the collaterals shall be further removed than the children of brothers and sisters. Same rule in case of remote as of near descendants, &c.

IV. § 7. In case of any person dying intestate, possessed of an estate of inheritance, without leaving any issue, or not having any brother or sister, or the lawful issue of such, who shall survive the estate of such intestate, shall be vested in fee simple, in his or her parent, from whom the same was derived ; or if such estate was actually purchased or otherwise acquired by such intestate, then the same shall be vested in the father of such intestate, if living, but if dead, then in the mother of such intestate and her heirs, and if the mother of such intestate should be dead, then in the heirs of such intestate on the part of the father, and for want of heirs on the part of the father, then to the heirs of the intestate on the part of the mother. Parents,

1787. Sess. 2. C. 10.

V. § 2. In the third session of 1784, c. 22. it was the intention of the legislature to let in the brothers of Half blood,

the half blood, equally with brothers of the whole blood, and for want of a brother or brothers, or any lawful issue of such brother or brothers, then to the sisters as well of the half as of the whole blood.

Parents. VI. § 3. In case of the death of any person intestate, leaving any real estate, actually purchased or otherwise acquired, and not having any heirs of his body, nor any brother or sister, or the lawful issue of such, then such estate shall be vested in the father of such intestate, if living, but if dead, then in the mother for life, and after the death of the mother, then in the heirs of such intestate on the part of the father, and for want of heirs on the part of the father, then in the heirs of the intestate on the part of the mother forever.

1801. C. 11.

Where no heir widow to be heir. VII. § 1. Where any person shall die seized of real estate of inheritance in this state, leaving no person who can claim as heir to him, but leaving a widow, that the widow in such case shall be esteemed as heir to her husband, and inherit his estate as such.

Descent where aliens are concerned. VIII. § 2. Where any person shall die seized of real estate of inheritance in this state, leaving descendants or other relations, citizens of the United States, who would according to law inherit, were all other nearer descendants or relations extinct, but who, according to the now existing laws, cannot inherit, because there may be others who, if citizens, would be entitled to inherit, but being aliens, cannot hold lands in this state, whereby such estate would escheat; in such case the nearest descendant or relation of the deceased, being a citizen of the United States, shall inherit.

Its operation. IX. § 3. This act shall have operation upon all estates which at present would be liable to escheat, which have not been reduced into actual possession by the state, or those claiming under it, in right of escheat, any law to the contrary notwithstanding.

1808. C. 4.

The following rules are established for regulating the descent of inheritance :

Rules of descent. X. § 1. Inheritances shall lineally descend to the issue of the person who died last actually or legally seized, for ever, but shall not lineally ascend except as is hereinafter provided for. 2. Females shall inherit equally with males, and younger equally with older children. 3. The lineal descendants of any person deceased shall represent their ancestor, and stand in the same place as

the person himself would have done had he been living.

4. On failure of lineal descendants, and where the inheritance has been transmitted by descent from an ancestor, or has been derived by gift, devise or settlement from an ancestor, to whom the person thus advanced would, in the event of such ancestor's death, have been the heir, or one of the heirs, the inheritance shall descend to the next collateral relations of the person last seized, who were of the blood of such ancestor, subject to the two preceding rules.

5. On failure of lineal descendants, and where the inheritance has not been transmitted by descent, or derived as aforesaid from an ancestor, or where, if so transmitted or derived, the blood of such ancestor is extinct, the inheritance shall descend to the next collateral relations of the person last seized, whether of the paternal or maternal line, subject to the second and third rules. 6. Collateral relations of the half blood shall inherit equally with those of the whole blood, and the degrees of relationship shall be computed according to the rules which prevail in descents at common law : *Provided always*, That in all cases where the person last seized shall have left no issue, nor brother, nor sister, nor the issue of such, the inheritance shall vest, for life only, in the parents of the intestate, or in either of them, if one only be living, and on the death of one of the parents, then in the survivor, and afterwards be transmitted according to the preceding rules.

XI. §2. This act shall commence and be in force from and after the thirty-first day of December, and that all laws and clauses of laws which come within the meaning and purview of this act be, and the same are from that day repealed and made void : *Provided always*, That nothing herein contained shall be construed to repeal so much of the existing law as prohibits children who have had lands settled on them by a deceased parent, from claiming more of the inheritance of such parent than will make their shares equal to those of the other children.

Former
acts repealed.

See Intestates' Estates, 4.

DEVISES,

See Wills 4. Frauds and Fraudulent Conveyances 5. Lands 8.

DISAFFECTED,

See Members of Assembly 29, 30. Officers. Citizens.

DISCLAIMER,

See Trespass.

DISCONTINUANCE.

1777. C. 2.

I. § 12. None of the superior courts, nor any of the proceedings therein depending, shall be discontinued by reason of the death of any of the judges, or by their not attending at any term; but in such cases all pleas, causes, matters, and things, therein depending, shall stand continued and remain in the same condition in which they shall then be to the next succeeding term.

Superior
courts
when pro-
ceedings
not discon-
tinued.

II. § 60. None of the county courts, nor any process in any of them depending, shall be discontinued for or by reason of the justices failing to hold courts upon the day by law appointed, or of any alteration of any of the days appointed for holding the said courts; but in every such case all such process, matters, and things depending, shall stand continued; and all appearances upon returns of process, shall be made to the next succeeding term in course, in the same manner as if such succeeding term had been the same term to which such process had stood continued, or such returns or appearances had been made. And all recognizances, bonds, and applications for appearances, and all returns shall be of the same force and validity for the appearance of any person or persons at such succeeding term, and all summonses for witnesses as effectual as if the next succeeding term had been expressly mentioned therein.

Proceed-
ings in
county
courts
when not
disconti-
nued.

1789. C. 57.

III. § 7. Where a term of the superior court of law or the court of equity or a session of the court of pleas and quarter sessions, shall intervene between the death of any plaintiff or defendant, and qualification of the executors or administrators of such deceased plaintiff or defendant, the intervention of such term or session shall not work any abatement or discontinuance of such suit.

When not
discontin-
ued by death
of plaintiff
or defend-
ant.

DIVORCE AND ALIMONY.

1814. C. 5.

I. § 1. Where a marriage hath been heretofore or shall be contracted and celebrated between any two persons, and it shall be adjudged in the manner hereinafter mentioned, that either party at the time of the contract was and still is naturally impotent, or that either party has separated him or herself from the other, and is living in adultery, in every such case it shall and may be lawful for the injured person to obtain a divorce either from bed and board or from the bonds of matrimony, at the discretion of the court.

Causes for
divorce.

Giving the Supr! ex clusion
jurisdiction in all cases of
divorce - 1827 C 19 -

Supr. Court may decree alimony -
The Wife entitled to Alimony agt
her husband who is an habitual
drunkard or spendthrift, wasting his
substance to the impoverishment of
his family - -

Husband's property liable for any joint
debts up to the decree for alimony -
The effect of such decree seems to be
w/ - any property she may subsequently
acquire - unless the Court direct
otherwise -

The mode of proceeding under this act
same as is directed in applications
for a divorce - 1828 C 44 -

Courts of Equity have concurrent
jurisdiction with C^s of law in all
divorce cases -

C^s of Equ. have may issue writs of ager
tation & all other necessary process
1834 C 15 -

It. § 2. Where any person has been or shall hereafter be injured in either of the ways abovementioned, the husband or the wife may exhibit his or her petition or libel to one of the judges of the superior courts of law in this state in term time, or to one of the judges in the vacation, at least thirty days before the next term, setting forth therein particularly and especially the causes of his or her complaint; and shall together with such petition or libel, exhibit an affidavit on oath, taken before one of the judges of the superior courts, or some justice living in the county where he or she resides, that the facts contained in the said petition or libel are true to the best of his or her knowledge and belief, and that the said complaint is not made out of levity or by collusion between the said husband and wife, and for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in the said petition or libel; bond with sufficient security for the prosecution of the same being first given as required in other cases at law, and thereupon a subpoena may and shall issue from the said court, directed to the person so complained against, commanding him or her to appear at the next superior court of law to be held for the said county, then and there to plead or answer to the said petition or libel; and upon due proof at the return of the said process, that a copy thereof was served either personally on the said party or that he or she could not be found, and a copy thereof was left at his usual or last place of abode in said county, at least fifteen days before the day of the said return inclusive; if he or she shall refuse or neglect to appear, then an alias subpoena shall issue, returnable to the first day of the next term, and be served personally in manner aforesaid; but if he or she cannot be found, then proclamation shall be properly made by the sheriff at the door of the courthouse, for the party to appear and answer as commanded by the subpoena; and that notice thereof be given in two newspapers, such as the court may order, for three months; and in the mean time, the said court shall and may make such preparatory rules and orders in the cause as may be necessary to prepare the same for trial, when the court may determine ex parte if necessary: Provided always, that in all suits commenced under this act, the material facts charged in the said petition or libel shall be submitted to a jury, upon whose verdict, and not otherwise, the court shall decree: any rule or practice to the contrary notwithstanding.

How to

Bond and
security
required.

No divorce
where both
are guilty.

III. § 3. In any action or suit commenced in any of said courts for a divorce for the cause of adultery, if it shall be proved that the plaintiff has been guilty of the like crime, or has admitted the defendant into conjugal society or embraces after he or she knew of the criminal fact, or that the said plaintiff (if the husband) allowed of his wife's prostitution or exposed her to lewd company whereby she became ensnared to the crime aforesaid, it shall be a good defence and a perpetual bar against the said suit.

Divorces
must be ra-
tified by
the Assem-
bly.

IV. § 4. It shall and may be lawful for the superior court aforesaid, after hearing any cause commenced in virtue of this act, to determine the same as to law and justice shall appertain by either dismissing the petition or libel, or sentencing and decreeing a divorce and separation from nuptial ties or bonds of matrimony, or that the marriage is null and void, agreeably to the prayer thereof; and such court shall have power to decree alimony to the wife in the case of general divorce upon the petition of the wife. Provided that no judgment, sentence, or decree, of final and absolute divorce from the bonds of matrimony, shall be valid until ratified by the General Assembly of this state; and that after such sentence so nullifying or dissolving the marriage and its ratification by the General Assembly, all and every the duties, rights, and claims of the parties in right of said marriage shall cease and determine, and the complainant or innocent person shall be at liberty to marry again as if he or she had never been married. Provided always, that nothing herein contained shall be construed to extend to effect or render illegitimate any child or children born of the body of the wife during the coverture.

Alimony
may be al-
lowed.

V. § 5. If any person shall either abandon his family or maliciously turn his wife out of doors, or by cruel or barbarous treatment endanger her life, or offer such indignities to her person as to render her condition intolerable or life burthensome, it shall and may be lawful for the superior court upon complaint and due proof made in manner aforesaid, to grant a divorce from bed and board, and also to allow her such alimony as her husband's circumstances will admit, not exceeding one third part of the annual income or profits of his estate, or of his occupation or labours, or by assigning to her separate use, such part of the real and personal estate of the husband as the court shall think proper, not exceeding one third part of the husband's estate, as the justice of the case may require:

which shall continue until a reconciliation shall take place between the parties. Provided always, that nothing herein contained shall be construed in any wise to affect the rights of any creditor or creditors of the husband.

VI. § 6. And to guard the persons thus injured against the heat of momentary passion, and to afford time for reflection and opportunity for reconciliation, it is enacted that no petition shall be sustained in said courts unless the petitioner shall state and swear that the facts, the ground of his or her complaint have existed to his or her knowledge at least six months prior to the filing of the said petition; and no decree shall be made in any case under this act until at least twelve months after the filing of the said petition. Facts to be proved.

VII. § 7. No person not a citizen of this state at the time of passing this act, or who shall not have resided within this state three years immediately preceding the exhibition of his or her petition, shall be entitled to sue under this act. Persons not entitled to the benefit of this act.

VIII. § 8. In all cases brought under this act, the parties may take testimony by depositions under the same rules, regulations, and restrictions, as exists in equity in this state.

IX. § 9. A tax of the state of ten pounds shall be paid by the party cast, upon every case under this act. Tax for the state.

X. § 10. The court may award costs to the party in whose behalf the sentence or decree shall pass, or that each party shall pay his or her own costs as to the court shall appear reasonable.

XI. § 11. The husband against whom alimony or separate maintenance may be decreed, shall give good and sufficient security in open court, to be approved by the court, for the faithful performance of the same; and in case of failure, shall stand committed until the order or decree of the court is complied with, or the court may direct execution to issue as in cases at law, for the money thus decreed, and a writ of venire to the sheriff to summon a jury to lay off and allot the real or personal estate decreed to the wife. Provided that no process shall issue from the court to carry the decree into execution until the same shall have been ratified by the General Assembly and an authentic copy of such ratification filed with the clerk of the court before whom the cause was tried. Security for alimony required.

1816. C. 33.

XII. § 1. Whereas by the before recited act the sentence or decree which the court is authorised to pro-

nounce in the case of desertion of a wife by her husband is a divorce from bed and board, and a decree of alimony: And whereas cases of great hardship often occur, the husband being at liberty to return and squander away the estate of the wife, subsequently obtained: for remedy whereof, it is enacted, that in all future cases arising under the before recited act, whenever the court pronounces a decree of separation from bed and board, the effect of said decree shall be to secure to the wife so divorced, any property which she may subsequently obtain, either by her own labour, gift, devise, or operation of law, unless the court shall in their judgment otherwise order and decree; any law, usage, or custom, to the contrary, notwithstanding.

DOORKEEPERS OF THE ASSEMBLY.

See Speakers 1.

DOORKEEPERS OF THE COUNCIL.

See Salaries 1.

DOWER.

See Mortgage, 3. Widows 1, 2, 3, 4, 7.

DRAINING OF LOW LANDS.

See Land, XV. XVI.

DRUNKENNESS.

See Vice and Immorality, 3.

DUELLING.

1802. C. 5.

**Punish-
ment.** I. § 1. From and after the passing of this act, no person sending, accepting or being the bearer of a challenge for the purpose of fighting a duel, though no death ensues, shall ever after be eligible to any office of trust, honor or profit in this state, any pardon or reprieve notwithstanding; and shall further be liable to be indicted, and on conviction before any of the courts in this state having cognizance thereof, shall forfeit and pay a sum not exceeding one hundred pounds to the use of the state.

**Where
one party
is killed.** II. § 2. If any person fights a duel in consequence of a challenge sent or received, and either of the parties should be killed, then the survivor, on conviction thereof, shall suffer death without benefit of clergy; and all their aiders or abettors shall be considered accessories before the fact, and likewise suffer death without benefit of clergy.

DUE BILLS.

1809. C. 12.

I. § 1. Any person or persons, or body corporate,

who shall, in future, make or issue any promissory notes, commonly called due bills, for a less sum than ten shillings, intended to pass current, as a representative of, or a substitute for money, shall be liable to an action, in the name of the bearer, for recovery thereof, in any of the courts or superior courts in this state, which courts shall have cognizance and jurisdiction of the same, and who may render judgment against such person or corporation, to maintain which action it shall not be necessary for the plaintiff to prove that such note or due bill was ever presented, or payment demanded, any words in the said note or due bill to the contrary notwithstanding.

Penalty
on issuing
due bills
in future.

Penalty
for offering
due bills.

II. § 2. From and after the first day of May next, no person shall offer, in payment of any debt, or in exchange of any money or other thing, any such note or due bill, which is already issued, or may hereafter issue, unless to the person or corporation having issued the same, under the penalty of five pounds for each offence, to be recovered before any justice of the peace, to the use of the person suing for the same: Provided, That nothing in this act shall affect the bills or notes already issued for the benefit of any seminary of learning.

III. § 3. The statute of limitation shall not run, nor be pleaded in bar of the recovery of such note or due bill already issued as aforesaid, or which may be issued,

1816. C. 2.

Issue of
due bills
prohibited

IV. § 1. From and after the passing of this act, it shall not be lawful under any pretence whatever for any person or persons, any corporation, school or academy within this state, which now is or hereafter may be established, to issue any bill, order, ticket, promissory note or any other species of security, whatever may be its form or name, commonly called due bills, with an intention to evade this act, under the penalty of ten pounds for each and every bill, order, ticket, promissory note, or other species of security, whatever may be its name or form, commonly called due bills, so issued.

Penalty.

V. § 2. It shall not be lawful for any person or persons, to pass or receive any bill, order, ticket, promissory note, or other species of security, whatever may be its name or form, commonly called due bills, issued contrary to the first section of this act, or which has been already issued or is now in circulation; or for any person or persons, to pass or receive any bill, order, ticket, promissory note, or other species of security, whatever may be its form or name, commonly called due bills, issued by any person or persons, or bodies corporate of another state, under the

Penalty
for passing
or receiving.

penalty of ten pounds for each and every bill, order, ticket, promissory note, or other security, whatever may be its form or name, commonly called due bills, so passed or received.

VI. § 3. It shall not be lawful for any person or persons to pass or receive any check or checks drawn for less than one dollar on the state bank, the banks of Newbern or Cape-Fear, or the various branches or agencies thereof, for the benefit of any academy, school or corporation or company or private citizen, or any check or checks drawn on any person or persons whatsoever, under the penalty of ten pounds for each and every check so passed or received.

Manner
of prosecution.

VII. § 4. If any person or persons shall offend against this act, he, she or they may be prosecuted at the instance of the state, by way of presentment or indictment, and on conviction shall pay the penalty heretofore prescribed together with all costs of suit; and the proof of drawing, uttering, passing or receiving any such bill, order, ticket, promissory note or other security, shall be the same that is directed in the before recited act, and sufficient to convict the person or persons so offending.

Judges
give this
act in
charge.

VIII. § 5. It shall be the duty of the judges of the superior courts of law on their circuits, and the justices of the courts of pleas and quarter sessions, in the several counties, to give this act in charge to the grand jury, and on presentment being made, the attorney and solicitor for the state shall take effectual measures to prosecute to judgment the person or persons so offending and presented.

IX. § 6. All fines and penalties which may arise from convictions under this act, be and they are hereby appropriated, one half to the use of the prosecutor, the other to the use of the county where the offence was committed.

Fine and
imprisonment.

X. § 7. If any person or persons, bodies corporate, company or association, shall, after the ratification of this act, without the authority of the legislature first had, issue any promissory notes, commonly called bank notes, of any value with intention that the same should circulate and be received as a substitute for money, he, she, or they, or the persons composing the aforesaid bodies corporate, company or association, shall be prosecuted by way of indictment at the instance of the state in any of the courts of record thereof, and on conviction shall forfeit and pay the sum of one hundred pounds, and be imprisoned at the discretion of the court not exceeding six months.

XI. § 8. So much of an act, entitled "An act to in"

Elections

C?C? have power to alter by estab-
lish discontinuance & erect anew
separate places of election
1832. C 18.

Inspectors of Elections have the sole
& exclusive right to judge of the
qualification of voters & to
decide when Inspectors can't
agree 1833 C 9.

Senatorial Districts, time & place in
which the polls shall be conducted
1835. C 1.

To provide for the elections of members of the
Assembly when a vacancy shall occur before
the meeting of the Assembly - 1835. C 5

incorporate the Fayetteville School Association" as might by construction or implication seem to authorise the said association or its agents to issue any ticket, order, check, bill, or promissory note, either what are commonly called due bills or bank notes, of any value or description, he and the same is hereby repealed and made void. Repealing clauses of former acts.

XII. § 9. So much of an act, entitled "An act for establishing a manufacturing company," in the county of Bertie, as might by construction seem to authorise the said company or its agents to issue any tickets, orders, checks, bills or promissory notes, either what are commonly called due bills or bank notes, of any value or description, he and the same is hereby repealed and made void.

XIII. § 10. In case the Fayetteville School Association or Bertie Manufacturing Company, or their agents respectively, or any person or persons, school or academy, or corporation or company, shall refuse or neglect to pay on demand any bill, ticket, check, order, promissory note or other species of security, whatever may be its form or name, either what are commonly called due bills, checks or bank notes, the holder shall be entitled to recover one hundred per centum on the principal due on said due bill or bank note.

XIV. § 11. So much of the act as relates to the passing or receiving of due bills or bank notes intended to be prohibited by this act, already issued, stands suspended until the first day of July, eighteen hundred and seventeen. Operation of part of this act suspended.

ELECTIONS.

1793. C. 6.

I. § 2. If any person shall by force and violence break up any election by assaulting the officers thereof, or depriving them of the ballot boxes, such persons, their aiders and abettors, shall be adjudged guilty of a misdemeanor, and upon conviction shall suffer three months confinement in gaol, there to remain, without bail or mainprize, and until he pay such fine as the court before whom such conviction is made shall judge, not exceeding fifty pounds, and all costs and charges. Penalty for breaking up elections.

1795. C. 2.

II. § 4. It shall not be lawful to call or direct any regimental, battallion or company muster, or to assemble armed men on the day of any election, at any place appointed by law to hold elections for members of congress or members of the general assembly within this state, under the penalty of five hundred pounds, to be re- Armed men not to assemble at

covered of any person or persons who may call such muster or assemble such armed men, in the name of the governor for the time being, and be applied one half to the use of the informer, and the other half to the use of the state.

See Legislature 5. Members of Assembly 1, 2, 22, 39. Poor 1. Process 13.

EMBEZZLEMENT.

See Counterfeiting.

EMOLUMENTS.

See Privileges.

ENTAILS.

See Perpetuities 2. 3.

ENTRIES.

1777. C. 1.

Who may enter. a See § 20. b § 19, 11. 1. § 3. Any person who is or shall hereafter become a citizen of this state, and who shall perform the several requisites by this act required, may enter with the entry-taker of any county within this state, a claim^a for any lands^b lying in such county, which have not been granted by the crown of Great-Britain, or the lords proprietors of Carolina, or any of them, in fee, before the fourth day of July, 1776, or which have accrued or shall accrue to this state by treaty or conquest, every such citizen performing every thing by this act required to be previously done: Provided, that when any person shall have bona fide purchased lands, and has failed to register the deeds for the same, within the times required by law, nothing herein contained shall bar him from availing himself of the further times given for registering such deeds by any subsequent law, provided no person shall be entitled to claim any greater quantity of land than 640 acres where the survey shall be bounded in any part by vacant lands; or more than 1000 acres between the lines of lands already surveyed and laid out for any other person.

To take oath of allegiance. Oaths 16. II. § 4. Every person, except a guardian, who shall claim for an orphan child; and except persons absent in the service of this state, or of the United States, before he shall enter a claim for any of the lands aforesaid, shall take and subscribe the oath^a or affirmation of allegiance and abjuration prescribed by the law of this state, which oath the entry officer is hereby empowered and required to administer.

III. § 6. When the entry-taker shall certify to the county court a disputed claim in manner as by this act

Endorsing

Endorsing of bills and promissory
notes made security for the same
1827. C 2

To prohibit the entry of land covered by
the waters of any lake 1827 C 6

Enrol's survey for the Entry by
the or survey as have not-renewed
the land - 1827 C 14

Blank of C. C. to receive entries of
vacant land.

~~to~~ Entries may be made of swamp
land when the quantity does
not exceed 50 acres -
1830 C. 12

Giving longer time for paying of entry mo-
ney - 1832 - C 16 - 1835 - C 21 -

Five cents per acre to be paid for
vacant land, & not more than 100a
more than 100a in one lot and
during one year 19/100 per acre
1833 C 11 -

lected, the said court shall order the sheriff to summon a jury of good and lawful men, unconnected by affinity or consanguinity with the contending parties, who shall be above all exceptions, and having given the parties ten days previous notice, shall go with the said jury on the premises, and the jury being sworn to do equal right between the parties, to cause the witnesses on both sides to be examined, and the allegations of the parties to be made before such jury, and to receive the verdict of the said jury, and return it, together with the panel, to the next county court; and at the said court, if it shall appear that the jury have found generally for any of the parties, then the court shall order an authentic copy of the verdict to be delivered to the party for whom the same shall be found, who, upon entering the same with the entry-taker, and performing the requisites by this act required, shall obtain a certificate and order of survey in like manner as if he had made entry of a claim for the same premises, and the officer shall refund to the other party all the money which he has received from him, except the fees to himself for the services actually performed; and in all cases where the jury shall find a special verdict, the county court shall decide thereon, according to the right of the case, and shall order such determination to be delivered to the party, who may thereupon proceed as in case of a general verdict. Provided, that where it shall be made appear to the county court that the jury were partial or not all good and lawful men as required by the constitution, or have been influenced by any unfair practices of the party for whom they shall find, the said court shall order a new trial, and the proceeding shall be as before directed.

Caveat

how certified and
tr. cd. 24,
28, 30, 4, 10
13, 15, 16,
18, 20, 30.When a
new trial
may be ordered 12.

IV. § 7. "Where a claim shall be made to any lands for which a prior claim has been duly entered before such subsequent claim shall be received, the party making the same shall enter into bond with the entry taker, with sufficient security, payable to the adverse party in the sum of fifty pounds, that he will prosecute the said claim with effect; and if he shall fail therein, he shall pay costs and damages which shall accrue, which costs shall not exceed the fees in cases of juries of view, in cases respecting the titles or bounds of lands, and the clerks and attornies' fees as by law established in other courts, but may be diminished by the courts respectively as they shall judge right.

Adverse
claimant
to give
bond.

a 20l. scaled.

V. § 8. Nothing in this act shall extend to affect the

All forms
or titles
validated.

right, title, or interest which any citizen may have in lands heretofore obtained by patent from the crown of Great Britain, or any person claiming by, from, or under the same, or to bar any right of action, entry, or possession to such lands appertaining, but all such rights, titles, interests, rights of action, entry, and possession, shall be and remain as if this act had never been made.

Titles not
supported
by this act,
void.

VI. § 9. Every right, title, claim, interest, or property, by any person or persons set up or pretended to any of the before mentioned lands, which shall not be obtained in manner by this act directed, or by purchase or inheritance from some person or persons becoming proprietors by virtue thereof, or which shall be obtained in fraud, elusion, or evasion of the provisions and restrictions thereof, shall be deemed and are hereby declared utterly void.

Survey
how to be
made and
plats. 20,
23, 40, 22,
25, 27, 17,
18.

VII. § 10. Every county surveyor, upon receiving the copy of the entry and order of survey for any claim of lands shall lay off and survey the same agreeably to this act, and make thereof two fair plats, the scale whereof shall be mentioned in such plats, one of which, with the warrant, shall be filed by the secretary, and the other annexed to the grant; and no surveys shall be made without chain carriers, who shall actually measure the land surveyed, and shall be paid by the party for whom the survey shall be made, and such chain carriers shall be sworn to measure justly and truly, and to deliver a true account thereof to the surveyor, which oath every surveyor is hereby empowered and required to administer; and every survey shall be bounded by natural boundaries or right lines, running east, west, north, and south, and shall be an exact square or oblong, the length not exceeding double the breadth, unless where such lines interfere with lands already granted or surveyed, or unless where the survey shall be made on any navigable water, in which last case, the water shall form one side of the survey, and the breadth on such water shall not be more than one fourth part of the distance back from the water. Nothing herein shall prevent any person from entering a claim for any island or islands on any navigable waters, the quantity of which shall not exceed what is allowed by this act to be entered in one entry.

Par. 10.

Par.
17.

No to
confirm
an en-
try.

VIII. § 17. This act shall not extend to confirm any entry made or grant obtained in the late public land office for lands in the late lord Granville's district, or to any entry which hath heretofore lapsed for want of suing

out a patent or grant agreeably to the regulations heretofore established and in use within this territory; also nothing contained in this act shall be construed to prevent or bar any persons being subjects of this state, and claiming property in any lands therein by conveyance or grant from any nation of Indians from the right of trial by jury, or a hearing before the General Assembly of the state at a future day.

Savings.

IX. § 18. If any entry taker shall be desirous to make any entry of lands in his own name, such entry shall be made in its proper place before a justice of the peace of the county, not being a surveyor or assistant, which entry the justice shall return to the county court at their next sitting, and the county court shall insert such entry, and every entry made by or for such entry taker, in any other manner than is herein directed shall be illegal and void, and any other person may enter, survey and obtain a grant for the same lands.

How the entry taker is to enter.

1778. C. 3.

X. § 7. The surveyors shall run all dividing lines between party and party, according to the directions they may receive from them, or agreeable to directions from a jury in cases of contested and disputed claims, without regarding the cardinal points.

XI. § 8. All houses and edifices erected for and dedicated to the worship of Almighty God, where the same may have been on vacant and unappropriated lands, together with two acres adjoining the same, shall hereafter be held and kept sacred for divine worship to and for the use of such society or sectary by which the same was originally established.

Lands exempted.

1779. C. 4.

XII. § 1. The several county courts within this state, may, in all cases now undetermined, where they shall judge a new trial necessary, order the same either on the premises where the bounds of the land come in question, or before them, in which last case they shall direct a jury to be impannelled and sworn, as on the trial of other causes, to try the disputed claim; and where the said jury shall find generally or specially, the same proceedings shall be had on their verdict as in case of verdicts returned by the sheriff respecting vacant or unappropriated lands: and the judgment of the court in all cases of vacant or unappropriated lands shall be final and conclusive, without any appeal to the superior court.

New trial may be ordered.

Who to swear the jurors.

XIII. § 3. The sheriff or his deputy, shall have full power and authority to administer an oath to the jury and witnesses, and to qualify them in the same manner as a justice of the peace.

Heirs, &c. of an enterer to have the lands, 59.

XIV. § 4. In case of the death of any person who heretofore has made an entry of land, or who hereafter shall make an entry pending the same, or before the making out the grant, his or their heirs or assigns shall have a fee simple estate in the premises, although the grant shall be made in the name of the decedent.

Agreements to be acted on as verdicts.

XV. § 5. In many cases, after entering a caveat, the contending parties meet and agree, which agreement often cannot be ascertained, and thereby justice is delayed, and the intention of the legislature in granting lands defeated. On application to the county court where the land lies; both parties having such previous notice as the court shall judge sufficient, they shall ascertain the agreement, and give judgment in the same manner as on a verdict of a jury, and the like proceedings shall be had thereon. In case the agreement cannot be ascertained to the satisfaction of the court, they shall order a new trial as in other cases of caveats.

a 21. scaled

XVI. § 6. In case any person summoned as a juror to attend on the premises, who shall fail to appear and proceed on the trial, the sheriff shall return a list of his or their names so failing to the county court next succeeding, who shall order a notice to issue for him or them to show cause at the next succeeding session in justification of such failure, which if the court shall think not sufficient, they shall fix a fine on the said delinquent, not exceeding fifty pounds,^a and be further liable to the action of the party grieved.

Lands on navigable waters.

Par. VII.

XVII. § 7. When it shall have so happened that any person or persons shall have made, or hereafter may make any entry of lands on any navigable water, and are prevented from running out the same agreeably to the directions of 1777, c. 1, by the boundary of any land heretofore run out, that then and in that case, the surveyor may and shall run out and survey the same in the same manner that other lands are directed to be laid out.

1779. C. 6.

Intersecting entries.

XVIII. § 6. Where it shall so happen that the bounds of two or more entries join or intersect each other, the surveyor shall survey such entries in turn, the eldest being first surveyed, provided such entry shall not be created, but when that shall be the case, it shall not be laid

for the surveyor to survey either of the entries so joining or intersecting each other, until a final determination be had on such caveat.

1782. C. 7.

XIX. § 3. All entries of land subject to the confiscation laws, are hereby declared null and void. Confiscated lands.

1783. C. 2.

XX. § 11. The claimant of any land shall produce to the entry taker a writing signed by such claimant, setting forth where the lands shall be situated, the nearest water courses, mountains, and remarkable places, and such water courses and remarkable places as may be therein, the natural boundaries and lines of any other person or persons, if any, which divide it from other lands; and every such writing shall be in one quarter of a sheet of paper at least, and shall be endorsed by the entry taker with the name of the claimant and number of acres claimed, and date of the entry; and a copy thereof shall be entered in a well bound book, ruled with a large margin, and into spaces of equal distances, every space to contain one entry only, and every entry to be made in the order of time in which it shall be received and numbered in the margin; and if no person shall appear within three months after such entry to make claim for the said lands, the entry taker shall deliver to the party a copy of the entry, with its proper number, and a warrant to the surveyor to survey the same, which warrant shall be written or printed on a half sheet of paper at least; but if any person shall appear and set up a claim to any lands so entered, the entry taker shall note the same in the margin of the book of entries opposite such claim, and transmit the whole to the court, to be proceeded on as by 1777, c. 1, is directed. Claimant how to describe land
See entry takers 9.
Warrant of survey 46, 22, 37, 40, 42.

XXI. § 15. The secretary shall make out grants for all surveys returned to his office, which grants shall be authenticated by the governor, countersigned by the secretary and recorded in his office, ready to be delivered to the parties to whom the same shall be made on the first day of April and October in every year; and every person obtaining a grant for lands, shall within twelve months after such grant shall be perfect as aforesaid, cause the same to be registered in the register's office of the county where the lands shall lie. Grants how to be made, 32, 39 40, 41; 48, 55, 59,

XXII. § 19. Every entry-taker shall make out and deliver to the surveyor, on or before the first day of April and the first day of October annually, the warrants for the several entries which are not disputed, made in his Warrants; when to be delivered.

See par. 7.

office, endorsed in the manner aforesaid, which surveyor shall proceed in his surveys according to the number and date of the respective entries, and shall within twelve months after the receipt thereof, lay off and survey the same, agreeable to the directions of 1777, c. 1, and shall make two fair plats thereof, on not less than a quarter of a sheet of paper, certifying in such plats the date of the entry and number of the warrant under which the same shall be made, and shall set down in words at length the beginning, courses, distances, marks and water courses, together with the lines of such lands as may join the same, and the quantity of acres, which return shall be signed by such surveyor or his deputy.

Caveats. XXIII. § 20. Where any entry shall be caveated, the surveyor shall not survey any entry for the same land (of a younger date than the one caveated) joining or intersecting such entry, until a final determination be had in such caveat; and every entry taker shall copy and transmit to the surveyor every caveat entered in his office, with the time of entering such caveat, and the numbers thereof.

Suspension. XXIV. § 21. Upon complaint made on oath and sufficient reason shown to the governor or commander in chief, he may suspend the execution of such grants, and direct the secretary to certify the same to the court of the county wherein the land may lie, and the court shall, upon receiving such certificate from the secretary, order a trial by jury in the same manner as they may do if a caveat had been made in the office of the entry-taker, and the proceedings to be conducted in the same manner as is directed by 1777, c. 1.

Several entries in one survey

1794 C. 19.

XXV. § 2. The surveyors, or any of them, in parts of this state *to the east of the ceded territory*, may and shall survey for any person or persons whomsoever, his or their entries of land, already made, or that hereafter may be made, be the number of entries more or less in one entire survey, and return the same to the secretary's office, who shall make out a grant or grants for the same agreeable to such return, provided the entries so border on each other as to render this mode more practicable than to survey the same separately.

Joint survey.

§ 3. Where two or more persons shall have entered, or may hereafter enter lands, or where two or more persons agree to have their entries surveyed jointly, in one or more surveys, the surveyor shall survey the same accordingly, in one entire survey, and the persons so agreeing to have their entries surveyed, or entering their lands

for 1807
- 22 -
to

See 1875-Review Law (680
+ 1892 623-

jointly, shall hold the same as tenants in common, and not as jointtenants.

Fees.

XXVI. § 4. The owner or owners of lands surveyed in manner aforesaid, shall be obliged to pay the surveyor or surveyors and secretary the same fees as are allowed by law for other lands.

1787 C. 22.

Priority

XXVII. § 1. The surveyors in the several counties of this state shall survey all entries of land according to the priority of such entry, paying due respect to the number of each warrant: and every grant hereafter to be obtained by any subsequent entry or entries, otherwise than is by this act directed, shall be and the same is hereby declared void and of no effect. Nothing herein contained shall be construed to prevent any person making a subsequent entry on any land, from surveying and obtaining a grant as the law directs, for all such surplus land as shall remain after the enterer or enterers of such land hath surveyed his, her or their entry or entries as aforesaid.

1791. C. 21.

XXVIII. § 4. In case the entry-taker hath made return of any land circumstanced in the manner before described, *that is to say, where there is less land surveyed than contained in the warrant, or where the lands contained in the warrant shall have been taken by grants or entry of an elder date, the said claimant shall take the deposition of the surveyor in open court, that is to say, I, A B, surveyor of the county of , do solemnly swear, or affirm, as the case may be, that I proceeded to survey a tract of land for , by virtue of a warrant, number , adjoining the lands of , (and on completing the survey of the vacant land, agreeable to the location of the said warrant, there is a deficiency of acres, contained in the said warrant, and no vacant land wherewith the same may be satisfied agreeable to the location, as all lands adjoining are either taken by grants or entries of an elder date) or thus, and find the whole of the lands contained in the said warrant to have been taken by grants or entry of an elder date by , so that it is not in the power of the said to get any part of his said entry agreeable to the location of his warrant."* And the said claimant shall have the said deposition certified by the clerk of the county court, which certificate of the clerk shall specially set forth, that A B, was, or is the surveyor or deputy surveyor of the county, and the said clerk shall then inclose the deposition of the surveyor, and seal the same up within his certificate, and the claimant, upon de-

Purchase money refunded.

See par. 38.

This clause and also 1795, c. 17, § 5, were super-
ed by 1796

c. 7, § 8, but that

whole clause being repealed by 1798

c. 4, § 4. it is apprehended

those clauses are revived.

livery by himself, or other person, of the deposition and certificate aforesaid to the treasurer, shall be entitled to receive out of the treasury as much money per acre as land may now be entered for by law.

XXIX. § 6. The quantity of acres set forth in the deposition of the surveyor, shall be wrote in words at full length, and no way blotted; likewise the certificate of the clerk transmitted to the treasurer, shall set forth the circumstances in like manner; and if any surveyor makes a false deposition, he shall, on conviction, forfeit his office, and be also subject to the penalties inflicted for wilful and corrupt perjury; and the clerk making a false certificate, shall, on conviction, forfeit his office, and be subject to fine and imprisonment, at the discretion of the court before whom such conviction may be had.

1793 C. 23.

Entries
not to be
withdrawn

XXX. § 5. It shall not be lawful for any person making an entry of lands to withdraw the same.

1794. C. 16.

Price of
vacant
lands.

28,
29, 32, 54,
33, 38, 39,
51, 57,
58.

XXXI. § 1. All lands entered in this state shall be paid for at the rate of 50s. per hundred acres, either in cash or certificates, calculating both the principal and interest of the certificates up to the date of the entry (certificates passed at Warrenton in 1786, those issued by Patrick Traverse, and those commonly called Western or Chiccamauga certificates excepted).

1794, C. 17.

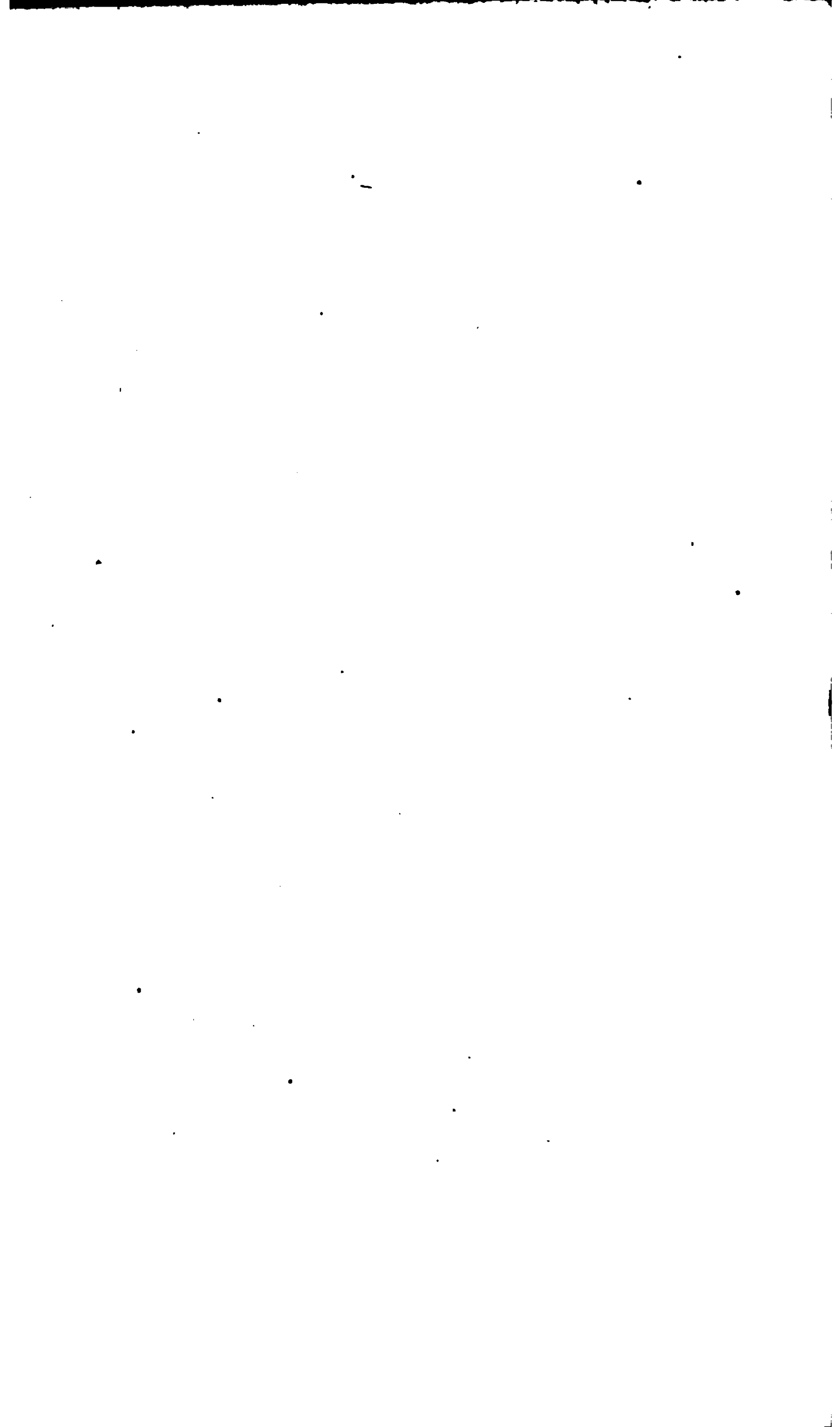
Grants,
where to
issue, &c.

XXXII. § 1. Grants shall not issue upon entries made since the first day of January, 1797, until the claimant shall produce to the secretary a certificate from the comptroller, certifying that a return from the entry-taker of the county hath been made in his office, also the number of the entry, and the amount thereof, and also a receipt from the treasurer, certifying that the purchase money for such land hath been fully accounted for and paid for by

Oath of the entry taker.
purchase
money
paid. p. 54.

Nothing herein shall be construed to prevent any person who hath bona fide paid to the entry-taker the purchase money for his land, from obtaining a title thereto, and the evidence of this payment shall be the receipt of the entry-taker, and the affidavit of the enterer or grantee, or his assigns, that he hath paid or caused to be paid to the entry-taker in whose office the entry was made, the amount of the money due for such land so entered, which receipt and affidavit shall be filed in the secretary's office.

XXXIII. § 2. It shall not hereafter be lawful for the entry-taker to receive from the person entering land in



his office, more than his own fees ; but it shall in all instances be the duty of the person entering to pay the purchase money to the treasurer, and take his receipt for the same previous to the warrants issuing upon such entry, and the secretary of state is hereby directed not to issue any grant for lands upon entries hereafter to be made, until the party applying for the same shall produce to him a certificate from the comptroller that such payment hath been made.

Purchase
money
paid the
treasurer.

XXXIV. § 3. In no entry made of lands within the present bounds of this state, shall the warrant be removed or laid on other lands than those especially located and described in the first instance upon the entry-taker's book, except in the same county in which the entries were originally made.

Entries
not remo-
vable.

XXXV. § 5. The comptroller shall issue warrants on the entries made in the late entry-office of John Armstrong, in all cases where warrants have not heretofore issued, and in which the purchase money or certificates have been paid.

Arm-
strong's
office.

1795. G. 17.

XXXVI. § 2. Any person or persons obtaining from the treasurer a certificate that the first enterer or enterers have not paid for any part of the lands by him or them entered (*within the time limited by law*) or having paid part, had not paid for certain numbers, and filing the same with the entry-taker of the county where the lands lie, may enter the same, or such parts thereof as are not paid for, and thereupon shall have as complete title to the same, on complying with the requisites of this act, as he or they would have had in case such lands had not been previously entered under 1794, c. 17.

Lapsed
entries.

XXXVII. § 4. The entry takers shall issue warrants on the application of such persons who have made entries in their offices since the 8th of February 1795, and on all entries which may hereafter be made, to issue warrants of survey at the expiration of three months from the date of each entry ; but nothing herein shall authorise the issuing warrants of survey in cases of caveats in any other manner than that heretofore pointed out by law.

Warrants
to issue.

XXXVIII. § 5. The time of payment to the state shall in no wise be postponed by means of entering caveats, or through other frauds or collusion : but in all cases of entry the cash or certificates shall be paid into the treasury, and the party ultimately failing to obtain the

Caveats
not to de-
lay pay-
ment.

Par. 28.

lands paid for, shall have his cash or certificates refunded to him in manner as is already provided by law.

Oath in certain cases.

XXXIX. § 6. No grant shall issue on the return of any land warrant issued on an entry made prior to the 8th of February 1795, until the enterer, or some person for him, shall make oath that the purchase money hath been actually paid, agreeably to law, and that the warrant on which the grant is claimed; was fairly and justly obtained, and without fraud unless it appears by the return of the entry taker, lodged in the comptroller's office previous to the 8th of February 1795, that the land was properly entered and returned by the entry taker of the county, in which case the certificate of the comptroller shall be a sufficient voucher for the secretary to issue the grant on.

1796. C. 7.

Date, how to be inserted.

XL. § 1. After the 1st of March next, the entry taker shall insert the date of the entry in the body of the warrant, and the secretary shall insert in the body of the grant the date of the entry where such date shall appear on the warrant returned into the office; and if any entry taker shall issue a warrant contrary thereto, he shall forfeit the sum of 200l. to be recovered by action of debt, one half to the person who shall sue for the same, the other half to the use of the state.

Grant, how to issue to assigns, 59.

XLI. § 2. Where the original enterer is dead, or the claimant holds by assignment from one removed out of the state, such claimant filing an affidavit to the effect mentioned in 1795, c. 17, in the secretary's office, the secretary may issue a grant upon warrants so returned for all entries made prior to the 1st January 1794, provided the warrant corresponds sufficiently with the transcript returned under the said act to the secretary's office (*see Entry Takers*), by the clerk of the county court; provided also, that grants may issue to persons claiming lands entered in Guilford and Chatham prior to the year 1783, although there may be no transcript with which the warrant may or can be compared.

Remedy, where warrants lost.

XLII. § 3. It shall and may be lawful for any person claiming lands under such circumstances, to make application to the court of the county in whose office such books are lodged, for a second warrant; and if it shall be made appear to the satisfaction of such court, by the inspection of the books, that such entry was made, and that the party had been legally entitled to receive a warrant, and it shall also be made appear, by the oath of the

surveyor or some credible witness, that such warrant has been lost or destroyed, that it shall be the duty of the court to order the clerk to issue a second warrant of the same tenor and date of the one so lost or destroyed, stating in the body thereof that the same is a duplicate; which warrant shall issue under the seal of the court of the county, and the same shall be as valid as if issued by the entry-taker; and the surveyor making return of plats and survey under such duplicate, it shall be his duty to note the same particularly therein; and the secretary issuing any grant or grants thereon, shall recite in the face of the same, that the same is issued under a duplicate warrant by virtue of this act, and liable to become null and void, if at any future time it shall appear that a grant had been obtained on the original warrant stated to have been lost or destroyed as aforesaid.

Repealed
in 1798, 4,
but revived
in 1801,
14.

XLIII. § 4. Where it shall appear by the entry-taker's books, that a warrant hath not issued by the entry-taker, the clerk, by order of the court, shall issue warrants in the same manner as by the first section of this act directed, par. 40, to the person or persons who may apply for the same.

Warrants
when to is-
sue.

XLIV. § 5. A claimant of lands in Wilkes, Burke or Buncombe, under color of an entry in Washington or Greene counties, in the state of Tennessee, shall, previous to making a survey thereof, produce to the court of the county where the land lieth, a majority of the justices being present, his warrant, and make it appear by his own oath, and other testimony where it can be procured, that the purchase money for the land claimed hath been paid to the entry-taker, and thereupon the warrant shall be countersigned by the clerk, and thereafter be held a good warrant: Provided nevertheless, that all such surveys shall be made agreeable to the location; and provided also, that any grant obtained on a warrant countersigned as aforesaid, shall be void, in case it shall afterwards appear that a warrant had been previously issued, and a grant at any time obtained thereon.

For lands
in Wilkes,
&c.

XLV. § 6. The secretary shall stay the issuing of the grants on all warrants returned into his office, purporting to be signed by any entry-taker of Washington or Greene, whereof he may entertain any doubts of their being genuine, or not actually signed by any of the said entry-takers; and in all such cases it shall be his duty to lay such warrant before the next General Assembly, who will take such order thereon as justice and the interest of the state may require.

Secretary
to stay
Grants, &c.

Entry-taker to return all lands entered.

XLVI. § 9. The entry-takers of the respective counties shall annually hereafter make return of all lands entered with them, as a part of their official duty, for which they shall claim no reward; and in case of the failure or refusal of any entry-taker to furnish returns as by this act required, he or they so refusing or failing, shall forfeit and pay the sum of one hundred pounds, to be recovered on motion in any court having cognizance thereof on the certificate of the treasurer that such failure hath happened.

Within what time the survey to be made 20, 22.

XLVII. § 10. Whenever a warrant of survey shall come to any surveyor, he shall as usual proceed to survey the same, and shall within thirty days after such survey is made, deliver to the person or persons for whom the survey was made, upon his or their application, and his fees being paid, the warrant, together with two just and fair plats of such survey, under the penalty of twenty pounds for each failure, to be recovered before any jurisdiction having cognizance thereof by the party grieved.

Clerk to search the entry-books.

XLVIII. § 13. Every clerk having possession of the books of entries prior to the 8th of February, 1795, shall, on application search the same, under the penalty of 50l. to be recovered to the use of the person suing for the same, and give, if required, a true copy of any location.

1796. C. 9.

Entries in Armstrong's office.

XLIX. § 5. In all cases of entries for land made with John Armstrong, in which warrants have issued, no grants shall be had on the same, unless it appears by the comptroller's certificate, that, agreeably to Mr. Armstrong's books, lodged in his office, or other sufficient testimony, that the purchase money hath been paid.

L. § 6. Any person who has made an entry or entries in the late office of John Armstrong, or the legal or equitable claimant of the land so entered, may pay to the treasurer in certificates the amount or balance of the purchase money due for such entry or entries, interest on which must cease at the time the entry was made; and the comptroller shall credit the account of the said Armstrong, and charge the treasurer with the said payment, for which payment the treasurer shall give a receipt, specifying the consideration thereof; and it shall be the duty of the comptroller, where the claimant shall produce such receipt to issue the warrant detained for non payment.

1797. C. 16.

LI. § 1. All entries now made, or which shall be made up to the close of the year 1797, shall remain the

property of the enterers until the last day of December, 1798, on which day, if not paid for, they shall be void. Time of payment.
 The lands entered in each preceding year shall be paid Time enlarged, see post.
 for in any event in the succeeding one, otherwise all such entries shall become void.

1797. C. 24.

LII. § 4. The comptroller shall on application issue Comptrol-
ler where-
in to issue
warrants.
 warrants for lands entered in the office of John Armstrong, in all cases where it shall appear by the entry books now in his office that the purchase money hath been fully paid, and in no other case shall warrants be issued by him.

LIII. § 5. No duplicate of a warrant shall issue on Duplicate.
p. 36.
 any entry, the warrant on which may be suggested to be lost.

1798. C. 4.

LIV. § 1. A certificate of the clerk of the court, with the seal annexed, stating that the person claiming a grant was qualified in open court, and did make oath that the purchase money for the lands claimed was paid to the entry-taker by or for him, shall be a sufficient voucher for Oath of
purchase
money pd.
32.
 the secretary to issue the grant on, whether the same shall be handed to him sealed up or otherwise.

LV. § 2. The secretary may issue grants on all entries made before 1783, without requiring from the applicant any proof that the purchase money has been paid the state, provided the entries on which grants are prayed for Grants
may issue
before
1783, with-
out oath.
 appear on the transcript of the entry-taker's books lodged in his office, and correspond with the warrants returned to him, which requisite shall be dispensed with in all cases applying to the counties of Chatham and Guilford.

LVI. § 4. Until the 1st day of January, 1800, enterers of lands upon entries made since the 15th November, 1777, Time al-
lowed to
perfect ti-
tles.
 may accomplish their surveys and perfect their titles.

LVII. § 5. All entries made since the 8th February, 1795, and up to the 1st January, 1798, shall yet have until the 1st October, 1799, to pay the purchase monies for the entries respectively to the state, after which period, all entries made since the 8th February, 1795, and up to the 1st January, 1798, which shall not be paid for, shall be deemed lapsed entries, and shall be considered utterly void, and of none effect. All lands so entered as aforesaid and not paid for, being thenceforward held vacant and unappropriated, and subject to be entered by any person willing to secure them. Farther
time.

LVIII. § 6. The secretary shall not issue any grant Grants not
to issue to
assigns.
 or grants on entries of lands hereafter to be made, except

to such person or persons, or their heirs, as made said entries.

1799. C. 11.

LIX. § 1. The claimants for unappropriated lands in the several counties in this state, who have made legal entries of the same at any time previous to the first day of January, one thousand seven hundred and ninety-eight, and have paid the purchase money for the use of the state as required by law, previous to the first day of October, one thousand seven hundred and ninety-nine; and the claimants who have made legal entries in the year one thousand seven hundred and ninety-eight, and have paid or shall pay the purchase money for the use of the state as is required by law, before the tenth day of October, in the year one thousand eight hundred, shall have longer time to cause surveys to be made and returned to the secretary's office, until the first day of January, one thousand eight hundred and two.

LX. § 2. No grants shall issue upon any surveys made after the first day of February, one thousand eight hundred, unless signed by the surveyor of the county.

LXI. § 3. In all cases of legal entries of land made previous to the first day of January, one thousand seven hundred and ninety-four, in which the warrant of survey and the plats shall be returned to the secretary's office within the time by this act limited, it shall be the duty of the secretary, and he is hereby required, on application, to issue a grant without requiring an affidavit or other proof of the payment of the purchase money, provided such entries shall appear and be found on the transcripts of the entry-books lodged in his office.

LXII. § 4. From and after the passing of this act, no grant shall issue on any entry made since the eighth of February, one thousand seven hundred and ninety-five, or hereafter to be made, on the treasurer's receipt, countersigned by the comptroller; but it shall be the duty of the comptroller, and he is hereby required, to make out and deliver to the secretary, a certificate conformable to each receipt by him countersigned, on which the secretary is hereby required to issue the grant; and on no other proof whatever shall he issue grants for lands entered since the year aforesaid.

1800 C. 3.

LXIII. § 1. From and after the ratification of this act, the secretary of state shall be, and he is hereby authorised to issue grants on all entries of lands not exceeding

four hundred acres, made in the year 1794, to the persons entitled thereto, if the words, matters and things relative to the same, shall appear to be just and fair, and shall agree with the transcript of the books lodged in his office.

C. 7.

LXIV. § 1. All persons who have made entries of lands since the first day of January, 1799, shall have until the day previous to the meeting of the next annual general assembly, to pay the purchase money for the same to the state; and until the said day previous to the meeting of the next annual general assembly aforesaid, no entry of land entered since the aforesaid first day of January, 1799, shall be held deemed a lapsed entry. When the entry shall not be deemed lapsed.

LXV. § 2. This act shall be valid and in force from and immediately after the ratification thereof.

C. 13.

LXVI. § 2. All persons claiming lands entered since the year 1792, the bounds whereof are not described or known, shall, within six months after the passing of this act, describe, survey and make known the situation, bounds and limits of the several tracts so claimed, and shall cause a fair plat of the lands contained in each and every county, to be made and recorded in the office of the register of each and every county wherein the said lands, or any part thereof, are situated. Bounds to be described in certain claims

LXVII. § 2. In case lands shall not be surveyed by any lawful officer, and the bounds thereof not made known by correct and fair plats, recorded in the register's office as aforesaid, describing the situation and limits of each & every tract, where it shall be surveyed in different tracts, within the period aforesaid, the same, and every part thereof not described, surveyed and made known, shall be held and deemed lands belonging to the state, and subject to be entered by and granted to the citizens thereof, in the same manner, and under the same rules and regulations; as the unappropriated lands of this state are liable to be entered and granted. Lands lawfully surveyed to be state lands.

1801. C. 2.

LXVIII. § 1. All bona fide entries of lands made in this state, previous to the 1st day of January, 1798, which have been paid for, shall have until the 1st day of December, 1802, to have the said lands surveyed and returned into the secretary's office; and all such lands not surveyed and returned into the secretary's office by the day aforesaid, shall become void, and is hereby declared lapsed. Time for lands to be surveyed & entered.

Further lands to the state, and may be thereafter entered by any time, 1802, person, as other vacant and unappropriated lands in this state.

LXIX. § 2. All such lands so surveyed and returned into the secretary's office, the claimants thereof, If not perfected, to shall cause the same to be perfected into grants, before laps. 1803, the 1st day of January, 1804, otherwise the same shall become null and void, and are hereby declared to be lapsed lands to the state, and may be entered again as other vacant and unappropriated land in this state.

LXX. § 3. From and after the passing of this act, where any person hath entered, or shall hereafter enter any vacant lands in this state, and shall in any manner or way attempt to make use of any of the timber or growth on said lands, by himself or any other person for him, or by his permission, before he actually pays the purchase money into the treasury of the state for the same, such claimant or enterer shall forfeit and pay the sum of twenty pounds for every hundred acres so by him entered, and shall further forfeit all his right of entry to said land, and his entry shall become null and void, and any other person shall and may enter the same as other vacant and unappropriated lands in this state; and such last enterer shall and may have right to all and every advantage of the premises when by him entered and the purchase money paid: *Provided*, nothing herein shall be construed to affect any entry of land made and settled on for the purpose of improvement by agriculture.

LXXI. § 4. Every person who shall make use of the state's land, by making therefrom or thereon tar, turpentine, shingles, staves, or cutting the timber off the same, before he shall have entered and paid for the same, every such person so offending, shall be liable to a fine of twenty pounds for each hundred acres by him or them entered, to be recovered in the county courts where such offence shall be committed. And it is hereby declared to be the duty of the county or state's attorney, acting for said county, on information to him made, to bring suit for the recovery of said forfeiture for the use of the state.

LXXII. § 6. All claimants of entries of lands made in the year 1800, who shall not have paid for the same before the expiration of the present year, shall have, until the first day of December, 1802, to pay the purchase money into the treasury for the same; and all entries so paid for, are declared to be as good and valid in law, as if the same had been paid for in this present year. And

the said enterers shall, within two years after the first day of December, 1802, perfect their entries by grant; and all entries not perfected by grant within the time aforesaid, shall be deemed lapsed, and shall revert to the state.

LXXIII. § 7. All suspensions of grants that have been granted, or shall hereafter be granted, by the governor of this state, the person at whose instance such suspension may be granted, shall cause the same to be docketed in the court of the county where such land so suspended lies, within six months after the granting such suspension; and on failure thereof, the said suspension is hereby declared void; and the claimant of such suspended grant, on producing to the secretary the clerk's certificate that said suspension hath not been carried into effect, agreeable to the requisites of this act, the secretary shall thereupon make out to such claimant a grant for the land so suspended.

1801. C. 14.

LXXIV. § 1. Seven acting justices shall be present in court at the time such duplicate warrant (issued according to 1796, c. 7, § 5.) may be obtained.

Duplicate
warrant.

1804. C. 11.

LXXV. § 1. All persons who have made entries of claim for lands with any of the entry-takers in this state, in the years 1800, 1801, 1802 and 1803, and have not paid for the same, shall have until the meeting of the next general assembly to pay the purchase money into the treasury of the state; and all entries of claim for lands made in the said years, which shall not be paid for on or before that day, shall lapse and revert to the state; and the lands so entered and not paid for, as aforesaid, shall thenceforward be held vacant and unappropriated lands.

Time of
payment a-
gain exten-
ded.

LXXVI. § 2. All persons who have made, or shall make entries of claim for lands with any of the entry-takers of this state, in the present year, that is to say, in the year 1804, and shall not sooner pay for the same, shall have until the second day of the meeting of the general assembly in the year 1806, to pay the purchase money into the treasury of the state; and all entries of claim for lands made in the said year, which shall not be paid for on or before that day, shall lapse; and the lands so entered, and not paid for, shall revert to the state, and shall thenceforward be held vacant and unappropriated.

Time en-
larged.

LXXVII. § 3. For all entries of claims for lands which may be made with any of the entry-takers in this state, from and including the first day of January, 1805,

Time en-
larged.

to, and including the first day of December next following the entries, shall have until the first day of November, which shall happen in the year 1807, to pay the purchase money into the public treasury.

LXXVIII. § 4. The fixed and standing law in future shall be that all entries of land made in the course of any one year, shall, in every event, be paid for on or before the first day of November, which shall happen in the second year thereafter; otherwise all entries of claim for the lands so made, as aforesaid, and not paid for on or before the first day of November, which shall happen in the second year after making the same, shall lapse, and the lands so entered shall revert to the state, and shall be free, as shall all other entries which become lapsed by and under this act, for any person or persons to enter as vacant and unappropriated.

1805. C. 2.

LXXIX. § 1. All grants issued on entries made for land situated as aforesaid, (*where the surveys have been extended into other counties than those where the entries were made*), where the money has been paid into the public treasury, shall be good and valid against any entries which may be hereafter made or grants issued thereon, any law, usage or custom to the contrary.

1805. C. 9.

LXXX. § 9. In future, the oath prescribed in the before recited act, for the surveyors to make in open court, in cases of deficiency, where no money has been paid, it shall and may be lawful to be taken before any two justices out of court, which depositions when so taken and certified under the hand and seal of such justices, shall be a sufficient voucher to the treasurer in the settlement of his accounts with the comptroller for such deficiency, any law, usage or custom to the contrary notwithstanding.

1803. C. 26.

LXXXI. § 1. The fixed and standing law in future shall be, that all entries of land made in the course of any one year shall, in every event, be paid for on or before the 15th day of December, which shall happen in the second year thereafter, instead of the first day of November as prescribed in the above recited act; and all entries of lands not paid for agreeably to the directions of this act, the same shall become null and void, revert to the state, and may be entered by any other person as unappropriated lands.

1809. C. 13.

LXXXIII. § 1. Whenever any entry of land shall hereafter be made in any entry-taker's office in this state, and the enterer shall fail to pay the purchase money for the same, within the time limited by law, it shall and may be lawful for any person, who may have made a subsequent entry for the said land, to pay the purchase money into the treasury and have a grant perfected, in the same manner as the original enterer would have done, had he not failed to pay the same; any law to the contrary notwithstanding.

The first enterer failing, another may obtain the grant.

1809. C. 16.

LXXXIV. § 1. The land lying west of the line run by Meigs and Freeman, within the bounds of this state, shall not be subject to be entered under the entry laws of this state; but that the same, when the Indian title shall be extinct, shall remain and enure to the sole use and benefit of the state; any law to the contrary notwithstanding.

Certain lands not subject to entry.

LXXXV. § 2. All entries made, or grants obtained, or which may hereafter be made or obtained, shall be null and void.

1810. C. 22.

LXXXVI. § 1. All bona fide entries of land in this state, which have been paid for, as by law directed, shall have until the first day of December, 1812, for surveys to be made and returned into the secretary's office, any law to the contrary notwithstanding.

Further time for surveys.

1811. C. 14.

LXXXVII. § 1. The proper officers of this state shall proceed to perfect titles to all or any part of the land lying south and west of the above described line, [viz. beginning at the place where the eastern or main branch of Elk River shall intersect the southern boundary line of the state of Tennessee, from thence running due north until the said line shall intersect the northern or main branch of Duck River, thence down the waters of Duck river to the military boundary line, as established by an act of this state passed in 1783] for which surveys shall be returned by General Thomas Love, who has been appointed surveyor of the said land, or by any other surveyor to be hereafter appointed by this state for the purpose of surveying the said land.

Certain titles perfected.

LXXXVIII. § 2. No assent that may hereafter be given by Congress to the provisions of the act of this general assembly above recited, passed in the year 1803, shall

The assent of Congress not to interfere with this act.

be considered as interfering with this act, or the titles to be perfected under the same.

1811. C. 16.

LXXXIX. § 1. From and after the passage of this act, it shall be sufficient in all cases when the before recited original claimants (of lands in the counties of Wilkes, Burke or Buncombe) are dead, for their representatives to prove the payment of the purchase money, by the oath of one or more credible persons; any thing in the before recited act to the contrary notwithstanding.

1811 C. 22.

XC. § 1. All bona fide entries of land in this state, which have been paid for as by law directed, shall have until the 1st day of December, 1813, for surveys to be made and returned into the secretary's office.

1812. C. 21.

XCI. § 1. All bona fide entries of land in the state, which have been paid for as by law directed, shall have until the 1st day of January, 1815, for surveys to be made and returned into the secretary's office; any law to the contrary notwithstanding.

1814. C. 2.

XCII. All bona fide entries of land in this state, the purchase money of which has been paid to the public treasurer, since the first day of January, one thousand seven hundred and ninety six, shall have until the fifteenth day of December in the year of our Lord one thousand eight hundred and sixteen, for surveys to be made and returned into the secretary's office: *Provided*, That no grant to be obtained under any survey to be made under this act shall affect or impair the title of any lands heretofore bona fide acquired by grant from this state: *Provided*, That this act shall not be construed to effect any entries made prior to one thousand eight hundred.

1814 C. 16.

XCII. § 1. Any person who has made, or shall hereafter make an entry or entries of lands within this state as required by law, since the year one thousand eight hundred, and upon which the entry taker has issued, or shall issue his warrant or warrants of survey, and the same be lost by accident, it shall be lawful, on due proof thereof being made to the satisfaction of the court of pleas and quarter sessions within the county wherein such entry shall have been made, or shall be made hereafter, to issue an order or other proper process, directing the entry taker or his successor to issue a duplicate warrant of survey, of

the same tenor and date of the one so lost, taking care to set forth in the face of said warrant, that the same is a duplicate, in which case, such warrant shall be as valid, and binding as the original : *Provided*, That seven justices shall be present in court, at the time of making such order : *Provided*, That nothing herein contained shall have the effect of reviving such entries as have reverted, or may hereafter revert to the state, by the purchase money not being paid within the time limited by law : *Provided also*, That no survey to be made under this act or grant to be obtained thereon, shall affect or impair the titles to lands heretofore granted.

XCIII. The entry takers shall be entitled to demand and receive for each duplicate warrant by them issued according to the provisions of this act, the sum of twenty-five cents.

1815. C. 6.

XCIV. All entries of land regularly made in the books of any entry taker within this state, who has not renewed his bond agreeable to law, shall be as good and available in law and equity as if the entry taker with whom the said entries were made had renewed his bond for the faithful performance of his duty as entry taker agreeable to law, any law to the contrary notwithstanding : *Provided*, that this act shall not be so construed as to make good any entry made with any entry taker so failing after the county court shall have appointed a successor in consequence of such failure.

1816. C. 31.

XCV. The several surveyors in this state shall have until the first day of January, one thousand eight hundred and eighteen, to complete their surveys upon entries actually made and paid for since the year one thousand seven hundred and ninety six, any law to the contrary notwithstanding : *Provided*, That no grant to be obtained on any survey to be made under this act, shall affect or impair the title of any lands heretofore bona fide acquired by grants from this state.

See Confiscation, 11. Taxes, 50, 63.

ENTRY-TAKERS AND SURVEYORS.

1777. C. 1.

I. § 2. The justices of the peace in every county within this state, at the next court which shall be held after each respective vacancy, shall elect one good and sufficient person to receive entries of claims for lands within such county respectively, and also one person properly

How
elected

2, 3, 4 qualified to be a surveyor of lands within the same, at which election whosoever shall appear to have the majority of the votes of the justices then present, shall be deemed duly elected, and no other; and every person so duly elected, for either of the offices aforesaid, shall hold the said offices respectively during good behaviour.

Oaths.
Bond of
the surveyor.

a 800L.
scaled.

Penalty
for neglect
of duty.

II. § 14. Every entry taker and surveyor, before entering upon the execution of his office, shall take and subscribe in open court, the oath prescribed for the qualification of officers, (*see oath of allegiance under Oaths*) and also an oath that he will well and impartially discharge the several duties of his office; and the surveyor shall enter into bond (*see Bonds*) with sufficient security, to be approved by the county court, in the sum of two thousand pounds to the governor for the time being, and his successors, for the faithful discharge of his duty.

III. § 15. Every entry taker and surveyor who shall neglect or refuse to perform the several duties by this act required, or shall knowingly suffer the provisions or restrictions thereof to be eluded or evaded, or shall ask, demand or receive, directly or indirectly, any greater fees than are by this act made lawful, shall forfeit the sum of five hundred pounds, to be recovered by action of debt, bill or plaint, and moreover shall forfeit all right to office, and shall be forever disabled from holding the same, or any other office within this state.

1779 C. 6.

Surveyors may
appoint deputies.

IV. § 5. Every surveyor in this state, in his respective county, may appoint a deputy or deputies, who shall, previous to entering on the execution of his or their office, be duly qualified in a similar manner with the surveyor; and the surveyor making such appointment shall be liable and accountable for the conduct of such deputy or deputies, in the same manner as for his own conduct in office.

1793. C. 23.

Entry-takers to
give bond.

V. § 1. The county courts respectively shall call on the entry-takers of their respective counties, at the term next after the first day of July 1794, to give bond with sufficient security, in the sum of 2000 pounds, payable to the governor for the time being, and conditioned for the faithful discharge of his duty as entry taker: and no entry taker who shall be appointed from and after the said first day of July next, shall enter upon the discharge of his office without giving such bond and security; and at the expiration of every two years thereafter, such entry-taker shall, in the same manner as at first, renew his bond with

How the survey of land shall be
made to enable the surveyors to
obtain grants from the State and
to confirm grants heretofore made
to surveyors & deputy surveyors
in certain cases - 1828 C 23.

§ 7 of Act provided Atty Gen. with a
certificate of failure of every entry
taken also neglect to make his re-
turns & it Atty Gen. shall move for
a new: judgment thereon
Entry taken to make return on or before

1st of each year -

1835. C 15

In the case of death the successor to office
warrants in the same manner as though
vacancy had occurred - 1835. C 19

security as aforesaid; and in case any entry-taker shall refuse or neglect to give bond and security, and renew the same as by this act required, every such entry-taker so refusing, is hereby declared to vacate his office, and to be ineligible to the second appointment, and it shall be then the duty of the court of such county wherein the said entry-taker is resident, to proceed immediately to the appointment of another person well qualified to fill such vacancy. All entry-takers appointed to fill such vacancies as by this act made such, shall be under the same rules, regulations and restrictions as other entry-takers within this state. No public debtor shall be eligible to the office of entry-taker.

To be renewed every two years.

VI. § 2. If any entry-taker, who by virtue of this act is displaced, refuses to deliver up his books and all other papers and documents relative thereto, to his successor in office, he shall for such refusal forfeit and pay the sum of 2000l. to be recovered before any jurisdiction having cognizance thereof, to be applied to the use of the state.

Penalty for not delivering books and documents

VII. § 4. For the year 1794, and each succeeding year, every entry taker within this state shall return to the comptroller's office, on or before the first day of October, after the close of each year, (on pain of forfeiting for every failure or neglect the sum of 100l. to be recovered on motion of the attorney for the state, on the comptroller's certificate, stating the neglect or failure) one fair list of all the entries made in his office in the course of the preceding year, which list shall contain the number and date of each entry, also the name of the person making the entry, and the number of acres entered by each; each of which returns or lists shall commence on the 1st day of January, and end on the 31st day of December, in the same year; and where it shall so happen that an entry taker hath been appointed when the year was advanced, his first return shall commence with his appointment, and end at the close of the same year.

Lists to be returned to the comptroller.

1794. C. 15.

VIII. § 4. The court in each county, at the court to be held after the 1st of April next, shall call on all former entry-takers who have held that office since the year 1777, and have vacated their offices by resignation or otherwise, and who still retain in their possession the entry books and papers by them kept, as also all heirs and representatives of any entry taker who may have died, who may have in their hands the books of any such entry-taker, to

Books to be delivered

surrender to the said court all such books and papers, and the said court shall proceed to examine all such papers, when so delivered to them, and shall make thereon such remarks as to them shall be deemed needful; and the said books and papers when so examined, shall be deposited in the hands of the present entry-taker,* whose duty it shall be to safely keep the same, subject, nevertheless, to the perusal of any person who may wish to examine the same, on paying the fees allowed by law.

*See p. 9.

1795. C 17.

Books to be delivered to the clerk.

Warrants to be issued.

Former entry-takers not to issue warrants.

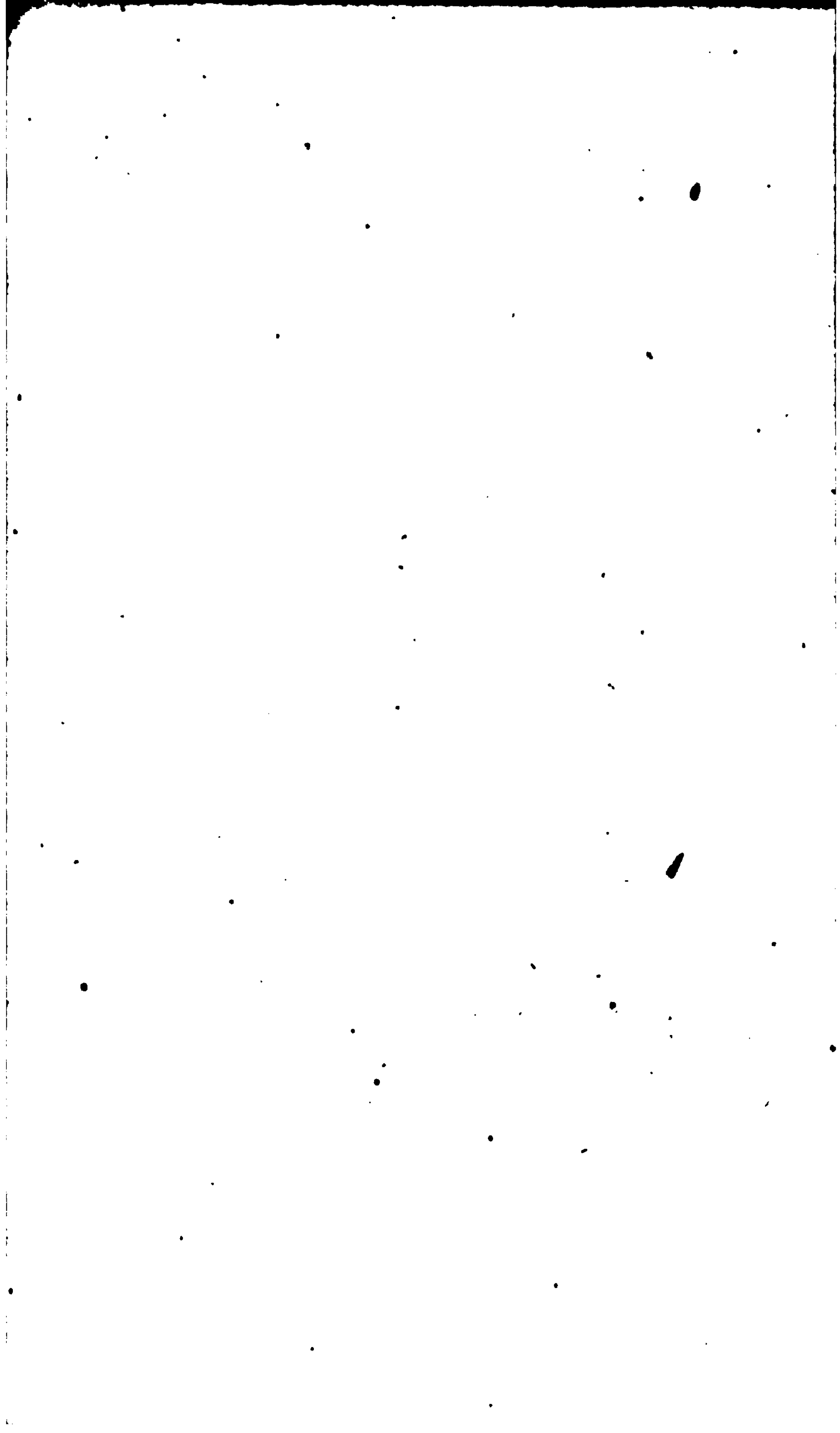
IX. § 7. Each entry-taker shall deliver up his books to the clerk in open court at the time of his resignation or dismissal, or at the first court that shall happen thereafter, first particularly noting on the margin opposite each entry, all such entries on which warrants have not been issued, to the end his successors may by written and particular order of court issue the same. No person who now is, or heretofore hath been or hereafter shall be entry-taker in any county in this state, shall issue a warrant or warrants on any entry made or pretended to have been made in the books kept by him when entry-taker after the time he shall cease to be such, on pain of forfeiting the sum of fifty pounds for every offence, to be recovered in any of the superior courts of law in this state, by any person suing for the same, and applied one half to his own use, and the other half to the use of the state, and on pain of being imprisoned at the discretion of the court, not exceeding three months.

Entry-taker to certify the date of the entry, &c.

X. § 8. Every entry taker in this state, at the time of making an entry of lands, shall furnish to the person making the same, a certificate of the date, number of the entry, and quantity of acres contained in each entry, which certificate shall be lodged with the treasurer by the person obtaining it at the time when payment shall be offered.

Clerks to apply for entry books.

XI. § 9. The clerks of the several counties, immediately after the passing of this act, shall demand and receive from the entry-takers of their respective counties, and from those who have heretofore been entry-takers, and are now no longer such, and from the heirs, executors and administrators of all persons who at any time between December, 1777, and the 8th day of February, 1795, have acted in that capacity, all books which have been by them or any of them kept for entries of lands, and generally the said clerks respectively shall have power to demand and receive from all persons whatever, in whose possession the same may be, all entry-office books as afore-





said; and the same having received, they shall deposit the originals in their respective offices, for the safe keeping and preservation of which they are hereby declared responsible.

XII. § 10. As soon as the clerks shall have obtained possession of the entry-books as aforesaid they shall make out a fair and complete transcript of the books deposited in their several offices; which transcript, after having been previously compared with the originals, under the inspection of the court, and properly attested, with the seal of the county annexed, shall be without delay transmitted by the clerk making the same to the secretary's office, on or before the first day of July, 1797; and the clerks shall not only receive such books as may be delivered to them, and forward a transcript thereof as herein directed, but also shall obtain information of the number and names of the several entry-takers, who have acted in their respective counties at any time between December, 1777, and the 8th February, 1795, and particularly state to the secretary, in a report which shall be subjoined to the transcript, the number of books which may be wanting, the names of the entry-takers who originally made and kept the same, the names of their securities, together with the real or suggested causes whereof such books cannot now be obtained.

Clerks to copy them and send a transcript to the secretary, &c.

Report to be made.

XIII. § 11. The clerks upon producing to the courts of their respective counties a receipt for the transcript, with the report thereto subjoined, made out, compared and attested as aforesaid, shall be allowed a reasonable compensation, to be paid by the treasurer on a certificate from the clerk, countersigned by the presiding justice, under the seal of the county, not only for copying such books, but for transporting the transcripts to the secretary's office as aforesaid.

Compensation to the clerks.

XIV. § 12. Should any entry-taker, or other person possessing the same, refuse to deliver the books of his office, or the books of any entry-taker, which may be in his possession, custody or keeping, on the application of the clerk of the county, or on his written and witnessed order, he or they so failing and refusing, shall forfeit and pay 500l. to be recovered by the attorney or solicitor-general, on the complaint of the clerk to whom the books have been refused, and applied to the use of the state; and if any clerk, after having received such books, shall fail, neglect or refuse to make out and transmit the transcripts, as above directed, to the secretary of state, such clerk so offending, shall forfeit and pay 500l. to be recovered and applied as other penalties in this act are directed.

Penalty for refusing to deliver entry-books.

Penalty
for writing
in or other
wise inter-
meddling
with en-
try-taker's
books.

XV. § 13. No person or persons shall take or hold the books of the said entry-takers in their possession, unless when permitted by this act, or unless the same shall come to his or their hands as executors or administrators; and if any person or persons, not being an entry-taker, shall presume to possess himself or themselves of the entry-taker's books for any county in this state, and shall make any official use of the same, or write therein, or intermeddle therewith, in any manner whatsoever, shall forfeit and pay 500l, to be recovered and applied as other penalties in this act directed, and shall on conviction thereof in any court of record, be liable to imprisonment not exceeding six months, for each and every offence.

1796. C. 7.

Express
to be sent
for returns.

XVI. § 12. Entry-takers who have failed to make their returns to the comptroller's office up to the eighth of February, 1795, shall be subject to the expence of having them sent for, and the comptroller shall send for all such as are not filed in his office on or before the first of March, 1797, and the messenger so sent shall be entitled to receive from the entry-takers respectively the sum of 6d per mile for every mile he shall travel going to and returning from the place of residence, which shall be paid by the entry-taker; and on his refusing to pay the expence aforesaid, the person demanding the return shall file his affidavit with the treasurer, who shall pay the same, and shall enter judgment against them for the amount of such expences as in other cases: Provided that in cases where the entry-takers have given up their books, without retaining copies, then the express shall apply to the clerk of the court for the returns of lands entered with the entry-taker, which the comptroller may have required, who shall furnish the same under his hand and the seal of the county; and for so doing he shall be paid agreeably to the labor, to be judged of by the comptroller.

See Bonds—Entries, 20, 22, 32, 33, 36, 37 40, 45—Fees, 12—Iron Works, 1, 3, 4—Justices, 4.

EQUITY.

1782. C. 11.

Court of
equity es-
tablished &
its power.

I. § 2. Each superior court of law in this state shall also be and act as a court of equity for the same district, and possess all the powers and authorities within the same that the court of chancery, which was formerly held in this state under the late government, used and exercised, and that are properly and rightfully incident to such a court,

When any person who has mortgaged
personal estate shall die - and no
acct. has been taken on his estate -
the Court of Equity may grant & hear
acct. to enable the Mortgagee to foreclose
the mortgage or to obtain a decree of
sale - 1828. C 35.

agreeably to the laws in force in this state, and not inconsistent with our present constitution.

1783. C. 4.

II. § 12. In all cases of disputes in matters of administration, testamentary and trusts between executors, administrators and guardians, and their wards and minors, in the settlements of accounts, and trusts arising from the depreciation of the currency and incidents growing out of the times; the parties may form a full and perfect state of the case on both sides, at their joint expence, which case shall be submitted to the determination of the judges of the court of equity, who are hereby authorised to take such case under their consideration, and to determine the same according to equity and good conscience. See superior court, par. 22, 23. Depreciation disputed.

III. § 13. No part of this law shall stop or hinder any person from proceeding in the usual course of law, if he, she or they shall deem the same necessary.

1787. C. 22.

IV. § 1. If any suit which hath been or hereafter shall be commenced in any court of equity, any defendant or defendants against whom any subpoena or other process shall issue, shall not cause his, her or their appearance to be entered on such process, within such time and in such manner as, according to the rules of the court, the same ought to have been entered in case such process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of such court, that such defendant or defendants resides or reside beyond the limits of the state, or that upon enquiry at his, her or their usual place of abode, he, she or they could not be found, so as to be served with such process, and that there is just ground to believe that such defendant or defendants is or are gone without the limits of the state, or otherwise absconded to avoid being served with the process of such court, then and in such cases the court out of which such process issued, may make an order, directing and appointing such defendant or defendants to appear on a certain day therein to be named; and in cases where such defendant or defendants resides or reside without the limits of the state, a copy of such order shall, within sixty days after such order made, be inserted in some gazette regularly published within the state, for such length of time as the court shall order and direct, and may, when they shall think necessary, direct such order to be inserted in any gazette in the United States; and in cases where such defendant or defendants shall have withdrawn him, her or themselves be- Proceedings in the court of equity when the defendant lives out of the state or has absconded &c.

Plaintiff
must give
security.

Proviso,
where a
non-resi-
dent defen-
dant, a-
gainst
whom a de-
cree is ob-
tained, af-
terwards
returns, &c.

yond the limits of the state, or otherwise absconded to avoid the service of such process, a copy of such order shall, within sixty-days after such order made, be inserted in some gazette regularly published within this state, if any there be, for such length of time as the court shall direct, and shall, within the time aforesaid, be posted up at the door of the court-house where such order shall be made, and also in some public place within the county where such defendant or defendants respectively made his, her or their usual abode, within thirty days next before such his, her or their absenting; and if the defendant or defendants do not appear within the time limited by such order, or within such further time as the court shall appoint, then, on proof made of such publication of such order as aforesaid, the court being satisfied of the truth thereof, may order the plaintiff's bill to be taken pro confesso, and make decree thereupon as shall be thought just; and may thereupon issue process as in other cases to compel the performance of the decree, either by execution as hereinafter provided to satisfy the demands of the plaintiff or plaintiffs in the suit, or by causing the possession of the estate and effects demanded by the bill to be delivered to the plaintiff or plaintiffs, or otherwise, as the nature of the case shall require. 1st. Provided nevertheless, That such plaintiff or plaintiffs shall first give sufficient security, in such sum as the court shall think proper, to abide such order touching the restitution of such estate and effects as the court shall think proper to make concerning the same, upon the defendant or defendants appearing and petitioning to have the said cause reheard, and paying such costs to the plaintiff or plaintiffs as the court shall order. 2d. Provided, That if any decrees shall be made in pursuance of this act, against any person or persons residing without the limits of the state at the time such decree is pronounced, and such person or persons shall within two years after the making such decree reside within the state, or become publicly visible therein, then and in such case, he, she or they shall likewise be served with a copy of such decree within a reasonable time after his, her or their coming into the state, or their public appearance shall be known to the plaintiff or plaintiffs; and in case any defendant or defendants, against whom such decree shall be made, shall, within two years after the making such decree, happen to die before his or her coming into the state, or appearing openly as aforesaid, or shall within the time last before mentioned die in custody, before his or her be-

ing served with a copy of such decree, then his or her heir of such defendant shall have any real estate, whereof possession shall have been delivered to the plaintiff or plaintiffs, if such heir may be found, or if such heir shall be feme covert, infant or non compos mentis, the husband, guardian or committee of guardians of such heir respectively, or if the personal estate of such defendant shall have been levied upon or possession thereof delivered to the plaintiff or plaintiffs, then his or her executor or administrator, if any such there may be, may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff or plaintiffs that the defendant is dead, and who is his or her heir, executor or administrator, and where he, she or they may respectively be served therewith within the state. 3d.

Provided always, if any person or persons so served with a copy of such decree, shall not within twelve months after such service, appear and petition to have the said cause reheard, such decree so made as aforesaid, shall stand absolutely confirmed against the person or persons so served with a copy thereof, his, her or their respective heirs, executors and administrators, and all persons claiming or to claim by, from or under him, her or them, or any of them by virtue of any act done or to be done subsequent to the commencement of such suit. 4th. Provided nevertheless,

That if any person so served with a copy of such decree, shall within twelve months after such service, or if any person not being so served, shall within three years next

Rehearing
on applica-
tion.

after the making such decree, appear in court and petition to be heard with respect to the matter of such decree, and shall pay down, or give security for the payment of such costs as the court shall think reasonable in that behalf, the person or persons so petitioning, his her, or their respective representatives, or any person claiming under him, her or them respectively, by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution may be had thereon, as there might have been in case the same party had originally appeared, and the proceedings had then been newly began, or as if no former decree or proceedings had been in the same cause. 5th. Provided nevertheless, That if any person or persons against whom such decree shall be made, his, her or their heirs, executors or administrators, shall not within three years next after the making of such de-

Decree,
when to be
confirmed

decree, appear and petition to have the case reheard, and pay down, or give security for payment of such costs as the court shall think reasonable in that behalf, such decree made as aforesaid, shall stand absolutely confirmed against the person and persons against whom such decree shall be made, his, her or their heirs, executors and administrators, and against all persons claiming or to claim by, from or under him, her or them, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such three years, it shall and may be lawful for the court to make such further order as shall be just and reasonable according to the circumstances of the case. 6th. Provided always, That this act shall not extend, or be construed to extend to warrant or make good any proceedings against any person residing without the state, unless the ground or cause of action, or the transaction on which the bill may be brought, took place within the limits of the state.

What ex-
ecution to
issue on
decrees in
equity.

V. §2. In all cases where decrees may have been made in any suit in equity in any of the courts of this state, or shall hereafter be made, for any sum or sums of money, it shall and may be lawful for execution to issue thereon against the defendant's body, or against his goods and chattels, lands and tenements, to satisfy such decree (and lands and tenements, goods and chattels, shall be bound by such decree and execution in the same manner as lands and tenements, goods and chattels, are by judgments and executions in law) and costs, in the same manner as execution may or shall issue in the courts of law.

VI. §4. Such court in all equity proceedings shall be styled and called the court of equity for its respective district, and in all law proceedings the superior court of law for its respective district as formerly.

1792. C. 8.

Days for
Equity bu-
siness.

VII. §1. It shall not be lawful for the judges of the said courts of law and equity, on the three last days of the terms respectively as they are now established by law, to take cognizance of any other business than that which may appear on the equity dockets at the said superior courts, until the business on the equity side of the court respectively shall be heard and determined as far as the same may be necessary or ready for hearing.

1812 C. 4.

Trust pro-
perty sub-
ject to ex-
ecution.

VIII. §1. It shall and may be lawful for every sheriff or other officer to whom any writ or precept hereafter shall be directed, at the suit of any person or persons, of

for, or upon any judgment now had, or hereafter to be had, to do, make, and deliver execution unto the party in that behalf suing, of all such goods and chattels, lands, tenements, rents and other hereditaments, as any other person or persons, be in any manner of wise seized or possessed, or hereafter shall be seized or possessed in trust for him, her or them against whom execution shall be so sued, as the sheriff or other officer might or ought to have done, if the said party or parties against whom execution hereafter shall be sued, had been seized or possessed of such goods and chattels, lands, tenements, rents or other hereditaments of such estate, as they be seized or possessed of in trust for him, her or them at the time of the said execution sued; which goods and chattels, lands, tenements, rents or other hereditaments, by force and virtue of such execution, shall accordingly be held and enjoyed, freed and discharged from all incumbrances of such person or persons so seized or possessed in trust for the person or persons against whom such execution shall be sued; and if any *cestui que trust* hereafter shall die, leaving a trust in fee simple to descend or come to his or her heir, executor or administrator, then and in every such case, such trust shall be deemed and taken, and is hereby declared to be legal assets in the hands of such heir, executor or administrator as the case may be; and such heir, executor or administrator shall be liable to and chargeable with the debts of his or her ancestor, testator or intestate, for and by virtue of such assets as fully and amply, as he, she, or they might or ought to have been if the estate at law had descended or come to him, her, or them in possession in like manner as the trust descended.

Trust property upon death of *cestui que trust* assets in hands of executor, &c.

IX. § 2. The equity of redemption in all lands, tenements, rents or other hereditaments which now are, or hereafter shall be pledged or mortgaged, shall in like manner be liable to any execution or executions hereafter sued out on any judgment or judgments now had, or which hereafter shall be had, against the mortgagor or mortgagors; and such equity of redemption shall, in the hands of the heir or heirs of such mortgagor or mortgagors, be deemed and taken, and hereby is declared to be assets by descent; and the heir or heirs shall be liable and chargeable with the debts of his, her, or their ancestor to the extent and in the manner herein before declared.

Equity of redemption liable to execution.

X. § 3. It shall be the duty of the sheriff, selling any lands, tenements, rents, or other hereditaments, under any execution to him directed, to set forth in the deed so

Sheriff's duty.

be made by him to the purchaser or purchasers thereof, that the same lands, tenements and hereditaments, were under mortgage at the time of the levy on and sale of the same.

1812. C. 25.

Court authorised to order sales

XI. § 1. It shall and may be lawful for any court of equity in cases of application for a division of real estate, when it shall be suggested and made appear to the satisfaction of the court, that an actual partition cannot be made without injury to some or all of the parties interested, to order a sale of the property upon such terms as such courts shall deem just and reasonable: Provided always, that whenever any of the parties shall be an infant, a feme covert, non compos, imprisoned or beyond the limits of this state, it shall be the duty of the court to direct the part of the proceeds of the sale to which such person is entitled, to be so invested or settled, that the same shall be effectually secured unto the person so entitled, or his or her real representatives.

See Guardian and Ward 19, 21. Lands 7. Members of Assembly 25. Practice 22, 31. Taxes 38. Superior Courts.

ERRORS

See Errors and Appeals 1, 3, 5. Grants 2, 3, 6. Practice 9. Escheators 1, 2.

ESCAPE.

1777. C. 8.

Civil cases.

I. § 9. If any person committed, rendered or charged in execution, or upon any mesne process to any prison, shall thence escape, it shall and may be lawful to and for any justice of the peace of the county where such prisoner was in custody, upon oath of such escape made before him by the sheriff, under sheriff or goaler, or other credible person, to grant to any person demanding the same, one or more warrant or warrants, under his hand and seal, directed to all sheriffs, bailiffs and constables within this state, reciting the cause of such person's commitment, and the time of his, her or their escape, and commanding them and every of them in their respective counties and precincts, to seize and retake such prisoner so escaped or going at large, and being so taken, forthwith to convey to the prison where debtors are usually kept in the county where such re-taking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of law; which warrant the sheriff is hereby required to obey, and receive the prisoner into his

safe custody, and to give a note to the persons delivering him, her or them, certifying his receipt of such prisoner, and shall also make return of the execution of such warrant to the court of the county, where such prisoner escaped; and if he or she was there in custody charged in execution, then the said sheriff shall safely keep him or her, without bail or mainprize, until he or she shall have made full payment and satisfaction to the plaintiff or plaintiffs, creditor or creditors, in whose names such execution was issued out, or until the judgment or judgments obtained against him or her shall be reversed or discharged by due course of law; and if any such prisoner shall have been in custody under meane process, in any action of debt or upon the case, the sheriff to whom he or she shall be committed, shall in like manner keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken to the court of the county wherein he or she was first arrested; and thereupon it shall be lawful for the said court, upon the plaintiff's filing his declaration and entering the defendant's appearance, to proceed to give judgment thereon, in the same manner as if the defendant had appeared in court, and refused to plead, unless such defendant shall cause special bail to be entered in said court, and shall immediately plead to issue, and thereupon a certificate under the hand of the clerk of the said court that such bail is given and delivered to the sheriff in whose custody such defendant shall then be, it shall be lawful for him to set at large such prisoner, and not otherwise; but where any prisoner escaped and retaken upon such warrant aforesaid, shall thereafter be charged with treason, felony, or other capital crime in behalf of this state, for which he or she ought to be tried in one of the superior courts, and shall be for such cause removed to any jail of such court, every such prisoner shall be charged in such jail with all causes wherewith he or she stood charged in the jail from whence he or she escaped or was removed, until he or she be thence delivered by due course of law.

II. § 11. Where any sheriff shall take the body of any debtor in execution, and shall wilfully or negligently suffer such debtor to escape, and such sheriff or person suing out such execution, shall die before a recovery can be had against such sheriff for such escape, the person suing out such execution, his executors or administrators, shall and may have and maintain an action of debt against

Escape
on execution

such sheriff, his executors or administrators, for the recovery of all such sums of money as are mentioned in the said execution, and damages for detaining the same.

1791 C. 12.

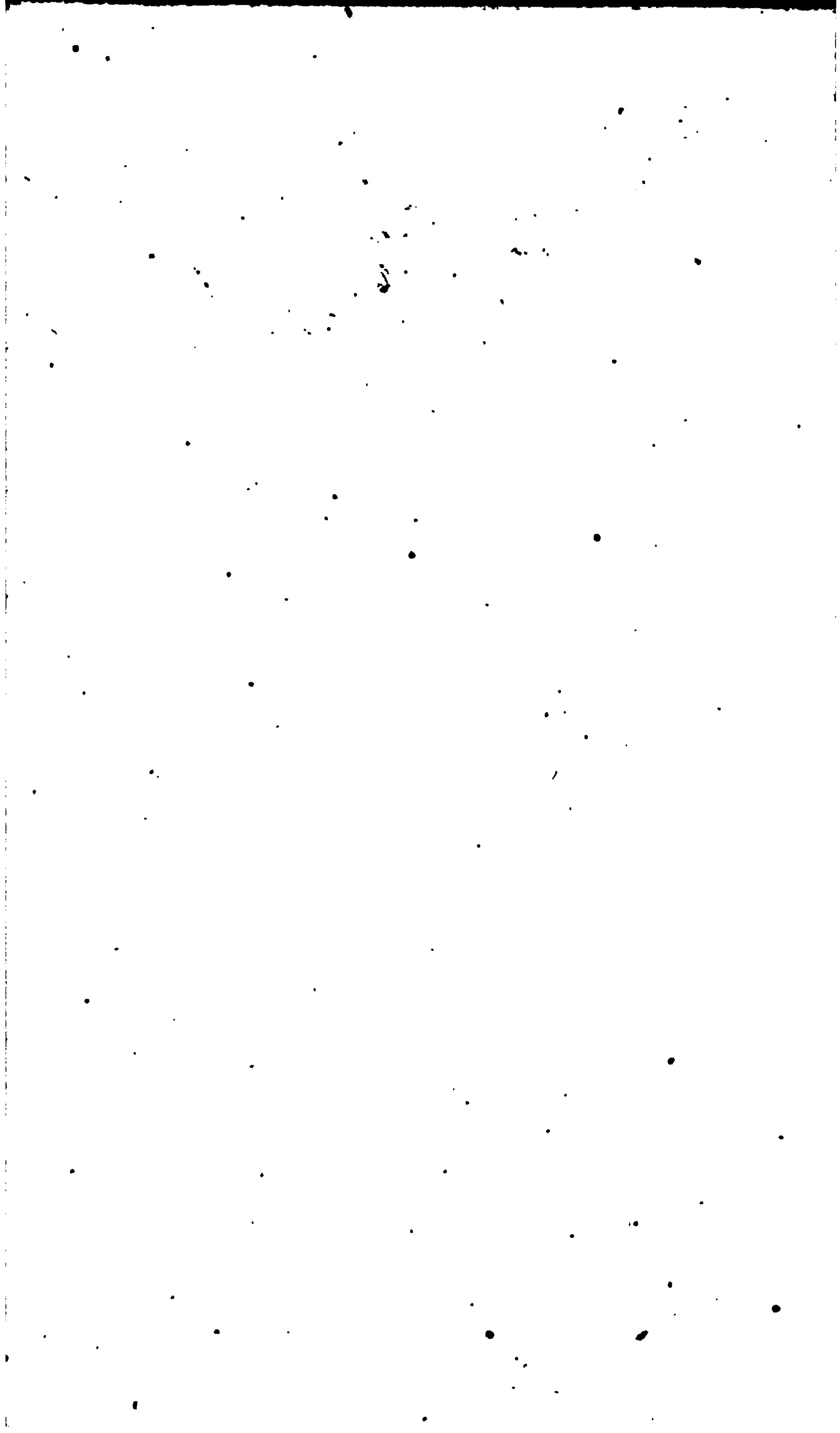
Penalty
for permit-
ting es-
cape, in
criminal
cases.

III. § 1. When any person charged with any crime or misdemeanor whatsoever, shall be legally committed to any sheriff, deputy sheriff, constable, or jailor, within this state, and such sheriff, deputy sheriff, constable, or jailor, wilfully or negligently shall suffer such person so charged and committed to escape out of his or their custody, the sheriff, deputy sheriff, constable, or jailor, so offending, being thereof lawfully convicted, shall be removed from office and fined at the discretion of the court before whom such trial may be had; and in all such cases, it shall be sufficient in support of the indictment of such sheriff, constable, or jailor, to prove that such person so charged was committed to his or their custody; and it shall lie upon the defendant to show that such escape was not by his consent or negligence; but that he had used all legal means to prevent the same, and acted with proper care and diligence; and when a sheriff shall, in consequence of a conviction under this act, be removed from office, the justices of the court of pleas and quarter sessions for the county for which such sheriff had been appointed, are hereby authorised, upon such conviction and removal, to elect and nominate a freeholder, as required by law, to execute the office of sheriff until the next annual election, who shall thereupon be commissioned by the governor or commander in chief, as in other causes. Such removal of a sheriff, shall not affect his power or duty as a county treasurer of the public revenues, but he shall proceed on such duty, and be accountable as if such conviction and removal had not been had.

Attorney
or solicitor
general to
prosecute
ex officio.

IV. § 2. It shall be a part of the duty of the attorney or solicitor general, as the case may be, that when they shall be informed or have knowledge of any felon or person otherwise charged with any crime or offence against the state, having escaped out of the custody of any sheriff, deputy sheriff, constable, or jailor, to take the necessary steps to prosecute such sheriff, deputy sheriff, constable, or jailor so offending; and for every such offence, and on all indictments in such cases, he may endorse the governor for the time being as prosecutor.

See Insolvent Debtors 4. Prisoners, Prisons, and Stocks 3. 5, 16. Process 13.



Ex^m

Bibles, prayer books, hymn books
testaments & necessary school
books acquired from Ex^m
1890. C33

EXECUTIONS.

817

ESCHEAT.

1811. C. 7.

§ 5. It shall not be lawful for any sheriff in this state to sell escheated lands for taxes; and all such sales in future are hereby declared illegal and of no effect. Sheriff not to sell for taxes.

See University 3, 4, 5, 8. Confiscation 22, 23, 24, 25, 26. Descents 9.

ESTATES-TAIL.

See Perpetuities 2, 3.

EVIDENCE.

See Comptroller 16. Army Accounts 3. Deeds 3, 4, 6, 10. Slaves 16. Bonds 1. Book Debts 1, 2, 3, 6. Clerks. Hunting 3, 4. Attornies 7. Cattle, Horses, and Hogs 16. Depositions 1, 2, 3. Entries 32. Entry Takers and Surveyors 7. Fences 7. Laws 7. Ordinaries 6. Tobacco 3, 10. Wills 9.

EXECUTIONS.

1777. C. 2.

I. § 77. Where any judgment or decree shall be obtained in any county court of pleas and quarter sessions for any debt, damages, portion, legacy, or distributive share of an intestate's estate, and the person against whom such judgment or decree shall be obtained shall remove him or herself and effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where such judgment shall be given or decree made, at the request of the plaintiff, to issue execution to any county of this state where the defendant or his goods may be found; and the sheriff or other officer to whom the same may be directed, is hereby empowered and required to execute the same, and make return thereof in the same manner as is directed for the returns of process issuing from the superior courts. Execution to issue to any county.

1777. C. 8.

II. § 7. Every sheriff in this state shall, on levying any execution for any debt, damages, or costs, make, if required, a bill of his fees due on such action or suit, and set down under the said bill, a true copy of the clerk's, attorney's, and other endorsed fees; separately and distinctly, and give a receipt for the same to the party against whom such execution shall issue, and also shall endorse the amount of his own fees he shall take on such execution, to be entered by the clerk on the execution docket, for which copy the said sheriff may demand and receive one shilling of the person requesting the same; and if any sheriff or other officer empowered to levy any execution, shall fail to do so, such sheriff or other officer Bills of fees to be given to defendant.

a 201. scale shall forfeit and pay fifty pounds to any person who will sue for the same.

1792. C. 2.

Public executions
Sec 9. 10. III. § 4. All sheriffs and coroners shall, upon receiving any execution at the instance of the state, proceed to advertise the property levied on for sale *after the time of receiving the execution, and before the time when his return is to be made*, and shall expose the same for sale at the courthouse of the said county, (1802, c. 19, § 2,) from the hour of ten o'clock in the morning until three in the afternoon, and shall publicly cry the same for at least one hour; and the said sheriff shall strike off and make a title to the said property so exposed, though there may not be more than one bidder therefor.

1799. C. 28.

Officers
to execute
deeds, tho'
out of of-
fice.

IV. § 1. Where any sheriff or coroner has heretofore sold, or may hereafter sell any real or personal estate, in obedience to executions or writs of venditioni exponas to him directed, and have not or may not have executed deeds for the same to the purchaser, such sheriff or coroner, though he may be out of office, shall seal and execute a deed or deeds of sale for such real or personal estate so sold to such purchaser at said sale, and who have satisfied or paid the money for the same; and in case any sheriff or coroner, having sold any estate as aforesaid, has died, or may die, or remove out of the state, then his successor in office shall, on application, make such conveyance as is herein directed.

1807. C. 14.

Remedy
for pur-
chasers, at
execution
sales.

V. § 1. From and after the passing of this act, where any property, either real or personal, shall be sold on any execution of fieri facias, venditioni exponas, or order of sale, issued from any court of law or equity in this state, or from any justice of the peace, such justice having jurisdiction and authority to issue the same, by any officer lawfully authorised to make such sale, and the sale be legally and bona fide made, and such property so sold be not the proper goods and chattels, lands and tenements, (as the case may be) of the person against whose estate such execution, venditioni exponas, or order of sale, may have issued, by reason of which the purchaser at such sale may have been deprived of the same property, or may have been compelled to pay damages in lieu thereof to the real owner, then, and in every such case, it shall be lawful for such purchaser, his executors, or administrators, to sue such person against whom such execution,





condemni exponas, or order of sale, may have so issued, or the persons legally representing him, in any action on the case, in an court of law in this state, and recover such sum as he may have paid for such property, with interest thereon, from the time of such payment:— Provided always, that such property, if the same be personal property, be present at such sale, and actually delivered to such purchaser.

1807. C 22.

VI. § 1. It shall be the duty of the several courts of pleas and quarter sessions, at the first term which shall be holden in their respective counties after the first day of January in each year, to settle the charges of the said officers [viz. sheriffs, coroners, constables, and other officers], for keeping, watering, and feeding any horse, cattle, hogs, or sheep, taken into their custody under legal process; and the said officers or any of them, may maintain his or their action against the debtor whose property has been so holden in custody for the amount of the charges thereby incurred, before any court or justice of the peace having jurisdiction of the sum due therefor.

Courts to settle the charges of officers.

VII. § 2. Every officer claiming under this act, shall make out his account, and, if required, give the debtor, his agent, or factor, a true copy thereof, signed with his own hand, and shall return the said account, with the execution or other process under which the property has been seized, to the justice or to the court to whom the execution or process is returnable; and shall then and there also swear to the correctness of the several items therein set forth, otherwise he shall not be permitted to make any recovery from the debtor.

Officers to make out their accounts.

VIII. § 3. If any of the said officers who has levied an execution or other process upon property, shall permit the same to remain with the possessor thereof, it may be lawful for such officer to take a bond for the forthcoming thereof to answer the said execution or process; but the said officer shall nevertheless remain liable, as heretofore, in all respects, to the claims of the plaintiff.

Officers to take bond for property.

1808. C 20.

IX. § 1. No sheriff, constable, or other officer, shall sell any goods or chattels by virtue of an execution, until he shall have advertised the same for sale ten days at least, in three public places in his county; one of which public places, if the defendant resides within the same county, shall be within the captain's district in which said defendant resides.

Ten days notice at 3 public places.

X. § 2. Every sheriff having an execution from any

Advertiser

too, at Crt court of record, shall, in addition to the above places, House. advertise the day of sale at the courthouse of his county.

1815. C. 4.

LX. § 1. Whereas many inconveniences arise to the citizens of this state having debts due to them, by the fraudulent conduct of sheriffs and other officers, which under the existing law cannot be detected, for remedy whereof, it is enacted, that whenever any sheriff, constable, or other officer within this state, shall return upon any writ of fieri facias or venditioni exponas to him directed, that he has made no sale for want of bidders, he shall state in his return the several places at which he hath advertised the sale of property on which he hath levied, and the places at which he hath offered the same for sale, and every sheriff or coroner failing to make such specification, shall for every omission be subject to a fine of twenty pounds, and every constable for a like omission of duty shall be subject to a fine of five pounds for the use and benefit of the plaintiff, in the execution on which such failure shall be made, and further be liable to an indictment for a misdemeanor in office: Provided always, that nothing contained in this act, or any recovery under the same, shall be a bar to any action for a false return against the sheriff, constable, or other officer violating the same.

See Administrators and Executors 4. Equity 5, 8. Fees 1, 5. Fraud 7. Insolvent Debtors 1, 7. Justices 1, 10, 18, 25, 26, 28. Lands 1, 2, 7, 9, 11, 12, 13, 14. Money 4. Partition 1. Process 6, 7. Prisoner 1. Sales 1. Sheriff 7. Slaves 16. Superior Courts 4. Taxes 19, 39. Widows 5, 6. Witnesses 4.

EXECUTORS,

See Administrators.

EXTINGUISHMENT.

See Administrators 19.

FAIRS.

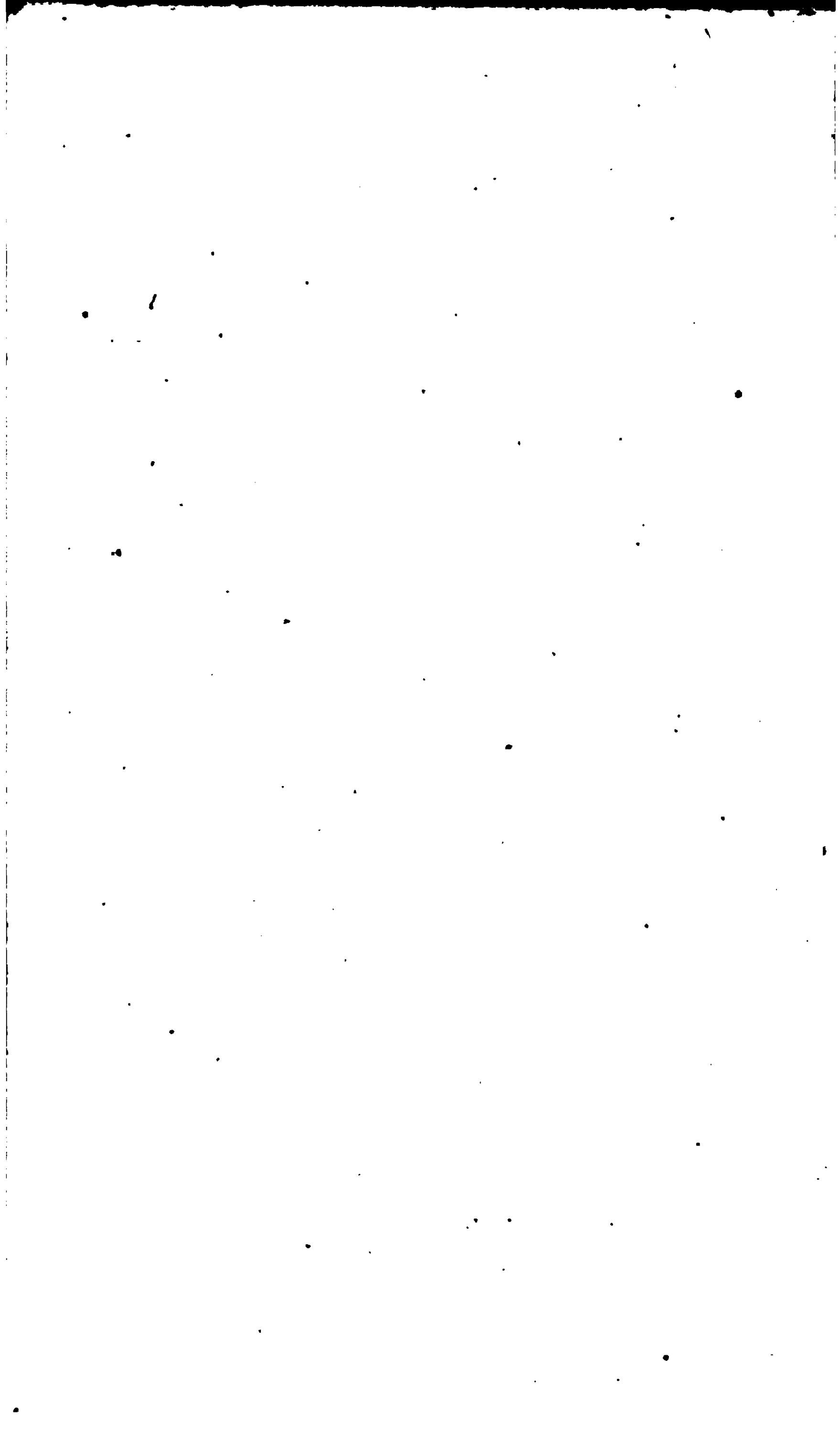
1794. C. 21.

County court may establish fairs.

I. § 1. The several county courts in this state may appoint a fair or fairs in their respective counties, at such place or places as they may judge most proper for the convenience of the inhabitants, so as to afford an opportunity and give encouragement to industry, by collecting the inhabitants for the purpose of exchanging, bartering, and selling all such articles as they may wish or be necessitated to dispose of.

Commis-

II. § 2. When any of the said courts may think proper to establish a fair, they shall nominate and appoint



Shuff? per for making return of votes for the
adopted or rejection of the proposed amendments
of the Constitution 1875. CA -

commissioners to regulate and conduct the same, by drawing up and forming a system of by-laws for the government thereof, to be approved by the said court and entered of record; which rules so formed as aforesaid, shall be considered as valid and as effectual as if they had been expressed by an act of Assembly for that special purpose, provided that said rules shall not be contrary or inconsistent with the laws of the land.

III. § 3. The inhabitants of every county wherein any fairs shall be established, shall have free liberty and power to attend the same, dispose, exchange, or barter, any article or articles whatsoever therein, without any restraint or distinction whatever, subject nevertheless to such rules as the commissioners aforesaid, or a majority of them, shall or may form for the regulation thereof.

IV. § 4. A majority of the acting justices shall in all cases be present when any order or decree of the court is passed for establishing such fair or fairs, and no less number than a majority shall have such power and authority as aforesaid, and a majority of the commissioners who may be appointed to regulate the same, shall in all cases be a quorum sufficient to transact any business relative thereto.

FAYETTEVILLE.

ORD. CONVENTION, 1789.

The town of Fayetteville shall and may be represented by a member, upon the same terms with the other district towns in this state.

FEES.

1779. C. 4.

I. § 4. The clerks of the superior and county courts on the fees not being paid by the party from whom they are due, may make out execution, directed to the sheriff of the county where the party resides, and the said sheriff shall levy the same by virtue of the said execution as in other cases; and to the said execution shall be annexed a copy of the bill of costs of the fees on which such execution shall issue, wrote in words at length without any abbreviation whatsoever, and all executions issuing without the copy of such bill of costs annexed, shall be deemed illegal, and no sheriff shall serve or execute the same.

II. § 7. If any clerk, during the sitting of the court whereof he is clerk, demand other or greater fees than by this act allowed, the court shall immediately, on complaint

putes a-
bout fees. being made thereof, determine what fee or fees shall be paid to the said clerk by the party complaining.

1784. C. 7. Sec. 2.

IV. § 1. The officers herein mentioned shall take and receive the following and no other or greater fees whatever.

Copy of
fees to be
put up by
clerk.

§ 2. The clerks of the several superior and county courts in this state, shall put up, in some public place in their office, an exact copy of the fees by this act allowed, and also in the courthouse during the sitting of each court, and for every such failure or neglect they shall forfeit and pay the sum of five pounds, to be recovered by warrant to the use of any person who will sue for the same.

Execution
for fees,—
bill of
costs an-
nexed.

V. § 8. The clerks of the superior and county courts where suits are determined, and the fees are not paid by the party from whence they are due, may make out executions directed to the sheriff of any county of this state, and the said sheriff shall levy the same as in other cases; and to the said execution shall be annexed a copy of the bill of costs of the fees on which such execution shall issue, written in words at length without any abbreviation whatsoever, and all executions issuing without the copy of such bill of costs annexed, shall be deemed illegal, and no sheriff shall serve or execute the same.

Penalty
for not ob-
serving
the act.

VI. § 9. If the clerk of any court, sheriff, register, or coroner of any county, shall hereafter be guilty of any breach of the duties enjoined him by this act, either by his own confession or verdict of a jury, it shall, on a second conviction, be adjudged and deemed a misbehaviour in office, for which such clerk or other officer herein mentioned shall be removed from office: Provided nevertheless, that in case such clerk or other officer shall be dissatisfied with the determination of the county court, he may appeal to the superior court of the district in which he resides, in which case there shall be a trial by jury, where, if the suspension of the county court shall be confirmed, the said clerk or other officer as aforesaid, shall ever after be rendered incapable of acting in the said office in any county in this state.

SHERIFF'S FEES.

For serving copy of a declaration 1s.

For pillorying a person 5s.

For an attachment, the same as for an arrest, and if further trouble by moving of goods, to be taxed by the court.

For executing a warrant of distress, or an execution against the body or goods, $2\frac{1}{2}$ per cent.

Fa hū- 1830.01+

For summoning, impanneling, and attending on every jury in every cause in court 1s.

When a special venire shall issue by order of court for summoning each juror, and attending the same 2s.

For serving and attending on any person on a habeas corpus, per day 15s.

1798, c. 18, § 1. For selling the estate of an intestate, to be allowed by the court, not exceeding $2\frac{1}{2}$ per cent.

1777, c. 7, § 1. For summoning every warden of the poor, to be paid by the county 2s. 8d.—6d. 4th scaled.

1782, c. 11, § 5. For services of equity process and incidental thereto, the same fees as for the like services at law.

1797, c. 18, § 3. For apprehending any criminal 10s.

For conveying any person in his custody for a criminal offence to the jail where such person ought to be conveyed at the rate of 6d. per mile; for each person composing the sheriff's guard 3d. per mile, and 4s. for each day such sheriff shall maintain said prisoner.

For carrying any sentence or order on the part of the state into execution, where the convict is to be corporally punished, except that of death 10s.

For the execution and decent burial of any felon 5l.

1802. C. 16. § 1.

The sheriffs of the different counties within this state, shall be entitled, for the following services, to the fees respectively annexed thereto. For every arrest 7s. 6d. for every bail bond 2s. 6d. For every subpoena he shall serve 3s. and every attachment levied 7s. 6d. for taking replevy bond upon such attachment 2s. 6d. for putting in stocks 6s. For every commitment 3s. For every release 3s. For every writ of possession 10s. For calling every suit in court 6d.

1815, c. 5, § 3. For every notice of taking depositions, same as subpoenas.

1816, c. 4, § 2. For serving any process at a distance of 20 miles or upwards, four cents a mile, to be taxed in the bill of costs.

RANGER'S FEES.

VIII. 1777, c. 9, § 10. For every search 1s.

1784, c. 7, § 6. For each and every horse, mare, or gelding, including the certificate entered in his office 3s.

For each head of neat cattle 2s. 6d.

For each head of hogs and sheep 1s.

1799. For every bond 2s.

1815, c. 9, and 1816, c. 11. For advertising strays 15s.

SECRETARY OF STATE.

For copying and certifying a will 4s.

For copying and certifying the record of a grant of patent 4s. For every certificate 1s. For every commission for a place of profit 8s.

IX. 1799, c. 25, § 1. For receiving the surveyor's return, filing the plan, making out and recording the grant, with the endorsement thereof and the certificate thereon, to be paid by the grantee at or before the delivery of said grant, out of the office, shall be entitled to receive 5s. For docketing a caveat, filing order of suspension to the court, and entering and filing the judgment of the court thereon 5s. For every search 1s. For registering every deed for lands purchased for the use of the state, under an act of the General Assembly passed in the year 1798, entitled "An Act to amend the revenue laws as respects the land tax," he shall receive the same fees that the registers of the different counties would be entitled to receive for registering similar deeds, to be paid him by the treasurer.

X. § 2. The secretary shall keep a receipt book in which he shall take from each and every person to whom a grant shall be delivered, a receipt.

PRIVATE SECRETARY.

XI. 1806, c. 10, § 1. From and after the passing of this act, the private secretary of the governor shall be allowed the sum of 150l. and the following fees, and no others whatever, viz. for a judge's commission 40s. For an attorney general's commission 20s. For a solicitor's commission 20s. For a commission to a senator to congress 20s. For a commission for a representative 20s. For a notary public's commission 20s. For any commission for a place of profit 20s. For a testimonial 10s. For a suspension of a grant 7s. 6d. For affixing the seal to a grant 2s. 6d.

SURVEYOR.

X. 1783, c. 2, § 16. For making the survey and all other services, for every three hundred acres or under 16s. and for every one hundred acres more 4s.

1786, c. 13, § 1. For surveying lands in dispute by order of court, for every day he shall be travelling to and from attending the survey, and performing the duty by law required 20s.

ENTRY-TAKER.

XII. 1783, c. 2, § 16. For every entry, including all services 4s.

CLERK OF THE SUPERIOR COURT.

XIII. c. 1, § 17. The fees of Attornies, Clerks and Sheriffs, for pleading and acting in superior courts, shall not exceed those already established by law for pleading and acting in the county courts of pleas and quarter sessions.

CLERK OF THE COUNTY COURT.

XIV. 1784, c. 7, § 1. For every leading process returned to the first court, including all services, together with dismissal or final judgment where either happens, 10s. For every presentment or indictment 6s. For entering and filing every recognizance, 2s. For every continuance or reference of any cause after the second court, including all fees for every service necessary thereon, 3s. For the court at which the cause is determined, including all services, 7s. 6d. For every subpoena, provided the party insert no more than four witnesses in the same, 1s. 6d. For every execution or order of sale necessarily issued, including all services thereon, with taxing costs and copy, and entering satisfaction, 3s. 9d. For every scire facias against bail, with making up an issue thereon, entering judgment without plea, including all pleas for every necessary service thereon, provided that the party paying costs shall not be subject to this unless the scire facias is necessary and required by the plaintiff, 6s. For giving a copy of the record of any cause when demanded by either of the parties, 4s. 6d. For every order or rule of court made on matters foreign to the suit depending in court, and a copy thereof, if demanded, 2s. For entering on the minutes the probate of wills, qualifying executors, making certificates, recording the will and giving copy thereof, 8s. For granting administration, taking bond, and all other services thereon, 8s. For proving and recording at length in bound books to be kept for that purpose, and filing an inventory, account of sales, or account current, exhibited by any administrator, executor or guardian, or for search, copy and certificate of the same, if the estate be under one hundred pounds, 2s. if above 4s. For every marriage licence and bond, 8s. For searching a record out of court, 1s. For proving or entering acknowledgment of a conveyance of lands or other estate, and certifying the same, with order of registration and examination of a feme covert without commission, 2s. For a commission to take the examination of a feme covert or witnesses in a case depending in court, entering the return thereon, and other necessary services, 2s. 4d. For guardian or other bond

taken in court, including all services, 6s. For indentures for binding out apprentices, including all fees for every service necessary thereon, 6s. For a special verdict or demurrer, or motion in arrest of judgment, 8s. For a writ of error or appeal, with a transcript of the record, and all services thereon, 8s. For making out certificates of witnesses attendance, 8d. For recording a mark or brand, and granting a certificate thereof, if required, 1s. And all other services done by the clerks of the county courts are hereby deemed *ex officio*, amongst which all notices or writs of *scire facias* against jurymen shall be considered, and the respective courts may allow reasonable satisfaction for the same annually, out of the county tax, not exceeding 20l.

1787, c. 19, § 4. For every security by him taken for the plaintiff's prosecuting his suit or to pay costs, 3s. For entering the same, with the names of the security, in a book to be by him kept for that purpose, 2s.

1790, c. 15, § 4. For each petition for correcting error in a grant or mesne conveyance, 5s.

1792. *Resolution*. For affixing the seal to every instrument of writing that may require the same, 2s. 6d.

1792, c. 9, § 8. For every processioner's certificate recorded, to be paid by the proprietor of the land, 2s.

1796, c. 7, § 13. For every search of the entry-taker's book in his possession, 1s. For the copy of every location, 1s.

1797, c. 16, § 4. For issuing warrant, granting a certificate, and affixing the seal of the county thereto, as directed by 1796, c. 7, § 4, *Entries* 40, the sum of 4s. and no more.

1798, c. 18. For tavern licence and bond, and furnishing a copy of the tavern rates, 8s.

1806, c. 11. For an account taken, the same as clerk and master in equity.

REGISTER.

XV. 1784, c. 7, § 4. For every search. 8d. For registering every other instrument of writing than a deed, or grant, 4s.

1797, c. 15, § 1. For registering each deed or grant where the conveyance is only for one tract of land, including the certificate thereof, 4s. If the deed be for the conveyance of two or more tracts, the sum of 4s. for the first tract, and 1s. for every other tract mentioned and described in said instrument, and in like manner for all copies executed by him.

1817, c. 16, § 4. For registering divisions of land, for each lot, 1s. and the same for every copy thereof.

ATTORNEY-GENERAL.

XVI. 1748, c. 2, § 1. For every indictment found, or presentment made, 26s. 8d. If the bill be found ignoramus, then the prosecutor shall pay 13s. 4d.

COUNTY SOLICITOR.

XVII. 1784, c. 31, § 2. For prosecuting for the state, in any of the county courts, in any matter civil or criminal, the same fees which are by law allowed to the attorney-general for the like services.

SOLICITOR-GENERAL.

XVIII. 1790, c. 8, § 7. The same allowances and fees as the Attorney-General.

CONSTABLE.

XIX. 1794, c. 7, § 5. For attendance of a constable every court when summoned by the sheriff, 8s per day. For whipping a negro by order of court or any justice, 2s. 8d.

1794, c. 13, § 4—22. For serving every warrant, to the constable or other officer, for each person named therein, 4s. For summoning every witness, 2s. For every execution, 4s. For every attachment levied, 5s. For every bail bond, 1s. Constable for serving any person who fails to give in his list of taxables in due time, 2s. For serving notice on bail, 4s.

CORONER.

XX. 1784, c. 7, § 7. For attending on every inquest, 24s. and the same fees for discharging the duties of a sheriff as such sheriff would be entitled to by this act for performing the same service.

1803, c. 22, § 1. Whenever an inquest shall be held, the treasurer of the county wherein the same may happen, shall pay off the cost and charges of the same out of the county monies.

COMMISSIONER OF AFFIDAVITS.

XXI. 1784, c. 13, § 3. For every affidavit taken and certified, 4s.

ATTORNEYS.

XXII. 1786, c. 14, § 4, & 1806, c. 1, § 17. For every suit in equity, 10l. For every suit in the superior or county courts, where the title of lands shall come in question, 5l. For all other suits in the superior courts, on the law side, and all other suits originally commenced in the county courts, 40s.

In every appeal from the judgment of a justice of the peace to the county court, 20s.

FEES.

INSPECTORS AND TURNERS OF ST. TOBACCO.

XXIV. 1803, C. 22, § 1. For inspecting, turning up, coopering, finding nails, hoops, and issuing a note, for every waggoned hoghead, 7s. and for each and every rolled hoghead, 8s. and no more. For inspecting transfer Tobacco, at the rate of 6d. per 100lb.

TOBACCO PICKERS.

XXV. For every hundred weight picked and prized, one fifteenth part.

CLERK AND MASTER IN EQUITY.

XXVI. 1787, G. 22, § 3. For a report on an answer 3s. on a plea and answer, 4s. on a demurrer and answer, 4s.; For an affidavit to an answer, 1s. 6d.; For an affidavit to a bill, 1s. 6d.; For a separate affidavit, 2s.; For a copy report by the office copy sheet, containing ninety words, 2s.; For copies of proceedings and exemplifications, copy sheet, 2s.; For taking a bond, 1s. 6d.; For every rule given for service, 2s. 6d.; For every rule not for service, 1s. 3d.; For every subpoena, writ or other process, 10s.; For every dedictus or commission, 5s. 4d.; For every injunction, 10s.; For drawing decrees, 4s. by the copy sheet; For enrolling a bill or answer, 2s. by the copy sheet; For entering a plea or demurrer, 2s.; For recording depositions to perpetuate testimony by the copy sheet, 2s. For search, 1s. For every dismissal, 2s.

1793, C. 16, § 9. For a report stating an account as much as the court may in discretion think adequate to the actual labor and trouble bestowed, not exceeding 25l. and the master shall in all cases give notice to the party liable to pay costs of the time that he will move the court to tax such costs as may arise on the reference of accounts. For taking security on a leading process, 2s.; For recording such bond, 2s.; For affixing the seal to any writing requiring the same, 2s. 6d.

INSPECTORS OF OTHER ARTICLES THAN TOBACCO.

XXVII. 1791, C. 14, § 3. For each barrel of flour, 6d.

1791. C. 14, § 7. For every barrel of pork or beef, 1s.; of rice or butter, 8d.; of fish, 4d.; of pitch or turpentine, 3d.; each hundred of staves or heading, 3d.; every thousand shingles, 3d.; each thousand feet of boards, plank or scantling, 1s.; each barrel of tar 2d. And the fees of inspection shall in all instances be paid by the purchaser or exporter of the articles inspected; but when the purchaser and seller agree on the disposal or exportation of any shingles, staves, heading, boards,

plank or scantling, they shall and may inspect the same, without calling in the aid of any inspector or inspectors whatever. Nothing herein shall affect contracts heretofore entered into for staves, shingles, plank or scantling.

PROCESSIONERS.

XXVIII. 1792, C. 9, § 8. One half the fees directed by law for surveying lands to be paid by the proprietor of the land.

STANDARD MEASURE.

XXIX. 1794, C. 24, § 1. For each and every pair of steel-yards, weights or measures by them stamped or sealed, 1s. 6d.

JAILORS.

XXX. 1815, C. 69, § 1. After the passing of this act, the jailors of every county in this state shall be entitled to receive for finding each prisoner fuel, one pound of wholesome bread, one pound of good roasted or boiled flesh, and a sufficient quantity of water, and every necessary attendance, thirty cents per day and no more.

1817, C. 12, § 1. The Courts of Pleas and Quarter Sessions of the several counties within this state, be and they are hereby authorised and empowered, whenever they shall deem it expedient, a majority of the acting Justices being present, to increase the fees of the jailors of their respective counties; *Provided* the same does not exceed fifty per cent upon the fees now by law established.

§ 2. Whenever any county court shall increase the jailor's fees of said county, they shall cause the same to be recorded, which sum shall not be altered within one year thereafter.

PILOTS AT OLD TOPSAIL.

XXXI. 1798, C. 38. The same sum for the pilotage of such vessel from the outside of the inlet and into Bogue road or Shackelford's road, at the option of the commander, as is established by 1794, c. 26, for the pilotage of vessels of a similar size from the outside of Occacock bar, ^{82.} *See p. 82.* into Beacon-island road or Wallace's channel.

PILOTS OVER OCCACOOK.

XXXII. Into Wallace's channel or Beacon Island road, for any vessel drawing less than eight feet, five silver dollars—for all vessels drawing eight feet water and less than ten, six-eighths of a dollar per foot, and for all vessels drawing ten feet water and upwards, one silver dollar per foot, for bringing such vessel from outside of the bar, and up into Wallace's channel or Beacon-Island

ford, at the option of the commander of such vessel, and the same pilotage out as in ; and that in all other respects the pilotage shall remain the same as established by 1794, c. 26, which is as follows, to wit : For every vessel or vessels, drawing any draft of water under eight feet, from the outside of the bar into Beacon-Island road or Wallace's channel, at the option of the commander, five silver dollars ; of eight feet water or more, and under twelve, five-eighths of a dollar per foot ; twelve feet water or more, one dollar per foot, and the same fees out over the bar as in. For every ship or vessel over either of the Swashes, two dollars. For every ship or vessel from the mouth of the Swash to either of the ports of Newbern or Washington, drawing any draft of water, one dollar per foot. For every ship or vessel from the mouth of the Swash to the port of Edenton, twelve dollars, and to the port of Camden ten dollars, and the same allowance down as up.

XXXIII. 1806, C. 23, § 1. All branch pilots legally authorised by the commissioners of either of the ports of Washington, Edenton or Newbern, to take charge of vessels to bring in over Occacock bar, and over either of the Swashes, shall be entitled to demand and receive of the commander of such vessel or vessels as they may have charge of, the following pilotage, to wit ; For every vessel or vessels of sixty tons burthen, from the outside of the bar, at any distance within the limits of pilot ground, to Beacon-Island road or Wallace's channel, six dollars ; and for all vessels drawing eight feet water and less than twelve feet, one dollar per foot ; and for all vessels drawing twelve feet or upwards, one dollar and twenty-five cents per foot, and two dollars for each vessel over either of the Swashes. And in all other cases, the pilotage to remain the same as established by an act of the General Assembly passed in the year 1794. *Provided always*, that no vessel less than sixty tons burthen shall be compelled to take a pilot.

PILOTS OVER BEACONET BAR.

XXXIV. 1784, C. 28, § 2. For every ship or vessel drawing eight feet or less, from the outside of the bar to the anchorage at Shackleford's Banks or Borden's Banks, 3s. per foot. For every vessel that draws more than eight feet, 3s. 6d.

PILOTS OVER BOGUE.

XXXV. 1792, C. 24, § 2. For bringing every vessel into the inlet drawing less than seven feet, from the out-



side of the bar to the anchorage before the town, or the customary place in Hill's channel, 5s. per foot. For every vessel drawing more than seven feet, 7s. and the same fees for pilotage outwards as inwards.

RIVER PILOTS AT CAPE FEAR.

XXXVI. 1786, C. 50, § 9. All demands for fees due to pilots of the said river, not exceeding 20l. shall be recoverable before a justice of the peace against masters or commanders of vessels, whose bonds entered into at the naval office may be put in suit for said pilot's fees before such justice, who, on due proof thereof, shall enter up judgment for the same, and issue execution therefor immediately; the party cast may appeal to the next county court, where such judgment shall be had in favor of any pilot for fees due him: if the defendant shall appeal, and the judgment of the justice shall be confirmed by the said county court, the defendant appealing shall be adjudged by the said court, to pay damages to the plaintiff in such case equal to one half the amount of the payment so appealed from.

XXXVII. 1790, C. 8, § 2, 3. For every vessel from Fort Johnston to Brunswick, not drawing above six feet water, 21s. For every vessel drawing above six feet, and not exceeding seven feet, 22s. 6d. For every vessel above seven, and not exceeding eight, 25s. above eight, and not exceeding nine feet, 29s. above nine, and not exceeding ten feet, 33s. 4d. above ten, and not exceeding eleven feet, 37s. 6d. above eleven, and not exceeding twelve feet, 45s. 10d. above twelve, and not exceeding thirteen feet, 54s. 2d. above thirteen, and not exceeding fourteen feet, 62s. 6d. above fourteen, and not exceeding fifteen feet, 70s. 20d. above fifteen, and not exceeding sixteen feet, 79s. 2d. and the same rates from the Flats to Wilmington, and from Five Fathom Hole to Brunswick, and from Brunswick to the Flats, each one-half of the same rates. The same rates of pilotage shall be paid for vessels going down the river as for vessels coming up.

XXXVIII. If any vessel deepens or lightens between Wilmington and the Flats, the Flats and Brunswick, or between Brunswick and Fort Johnston, the pilot shall be paid for the greatest draught of water, and shall besides be entitled to demand at the rate of 12s. 6d. per day for every day he may be delayed in loading or unloading such vessel, in which no fraction or part of a day shall be allowed or deducted.

BAR PILOTS OF CAPE FEAR.

XXXIX. 1796, c. 31, § 2. For bringing vessels over the main bar, and mooring them at Smithville (if mooring be required) and for bringing vessels over the bar of the new inlet, and mooring them at Five Fathom Hole (if mooring be required) and the same for taking vessels out to sea, from Smithville and Five Fathom Hole, for every vessel not drawing above six feet, 42s. 6d. above six, and not exceeding seven feet, 45s. 6d. above seven, and not exceeding eight feet, 50s. above eight, and not exceeding nine feet, 58s. above nine, and not exceeding ten feet, 67s. above ten and not exceeding eleven feet, 75s. above eleven and not exceeding twelve feet, 90s. above twelve and not exceeding twelve and an half feet 5l. above twelve and an half and not exceeding thirteen feet, 5l. 7s. above thirteen and not exceeding thirteen and an half feet, 5l. 15s. above thirteen and an half and not exceeding fourteen feet 6l. 4s. above fourteen and not exceeding fourteen and an half feet 6l. 13s. above fourteen and an half and not exceeding fifteen feet 7l. 2s. above fifteen and not exceeding fifteen and an half feet, 7l. 14s. above fifteen and an half and not exceeding sixteen feet, 8l. 7s. above sixteen and not exceeding sixteen and an half feet, 8l. 18s. above sixteen and an half and not exceeding seventeen feet, 9l. 10s. above seventeen and not exceeding seventeen and an half feet, 10l. 8s. above seventeen and an half feet and not exceeding eighteen feet, 11l. 4s. above eighteen and not exceeding eighteen and an half feet, 12l. above eighteen and an half and not exceeding nineteen feet, 12l. 16s. above nineteen and not exceeding nineteen and an half feet, 13l. 18s. above nineteen and an half and not exceeding twenty feet 15l. above twenty at the rate of 4s. for every inch in addition to the said 15l.

MINISTERS.

XXXX. 1778, C. 7, § 2. For marrying by license, 20s. by banns, 10s. Scaled 4s. and 2s.

MINISTER OR READER.

XLI. C. 7, § 6. For thrice publication of banns, and giving certificate, 4s. by the scale, 1s.

1841. C 19.

Fees to be collected or suits commenced in three years.

XLII. From and after the passing of this act, all fees which now are or hereafter may become due to the clerk of any court of record within this state; or to any sheriff or other officer, by sentence, judgment or decree of any court aforesaid, the same shall be collected, or suit com-

meaced therefor, within three years from the passing of this act, or within three years from the time of such judgment rendered, without an execution issued thereon, or within three years from the issuing of the last execution, and not after: *Provided nevertheless*, that this act shall not extend to fees which may be due and owing from persons residing out of this state; any law, usage or custom to the contrary notwithstanding. An exception.

1812. C. 14.

XLII. In the payment of fees to officers of whatever nature or kind, dollars, and the parts of dollars, shall always be valued at the rate of ten shillings for the dollar; And that any officer receiving dollars or parts of dollars at a less rate shall be liable to all the penalties of extortion. Dollars to be rated at 10s.

See Administrators and Executors, Attornies, Entry-takers and Surveyors, Insolvent Debtors, Inspections, Justices, Powers of Attorney, Prisoners Prisons and Stocks, Processioners, Runaways, Slaves, Taxes, Tobacco, View.

FEME COVERT.

1751. C. 3.

I. § 2. All conveyances in writing, and sealed by husband and wife, for any lands, and by them personally acknowledged before the chief justice,* or in the court of the county where the land lieth, the wife being first privily examined before the chief justice, or some member of the county court for that purpose, whether she doth voluntarily assent thereto, registered according to the directions of the laws of this province, shall be valid in law to convey all the estate and title which such wife may or shall have in any lands, tenements or hereditaments so conveyed, whether in fee simple, right of dower, or other estate, not being fee tail, as if done by fine and recovery, or any other ways and means whatsoever. Privily examined by chief justice or county court. *See superior court.

II. § 3. Where any such conveyances as aforesaid shall be acknowledged by the husband, or proved by the oath of one or more witnesses before the chief justice or county court, where the land lieth, and it shall be represented to the chief justice or county court aforesaid, that the wife is a resident of any other county, or so aged or infirm that she cannot travel to the chief justice or county court, to make such acknowledgment as aforesaid, it shall and may be lawful for the chief justice or county court, by his or their order, to direct the clerk of the county court where such land lieth to issue a commission to two or more commissioners, for receiving the acknowledgment of any By commission.

deed of such feme covert for passing her estate in any lands, tenements or hereditaments; and such deed acknowledged before them after they have examined her privily and apart from her husband, touching her consent and certified by the county court to which the commission shall be returnable, shall by order of the county court be registred, with the commission and return, and shall be as effectual as if personally acknowledged before the chief justice or county court by such feme covert.

III. § 4. Such commission shall be in the following form:

State of North-Carolina.

County.

To A, B, C, D and E, greeting:

Form of
commis-
sion.

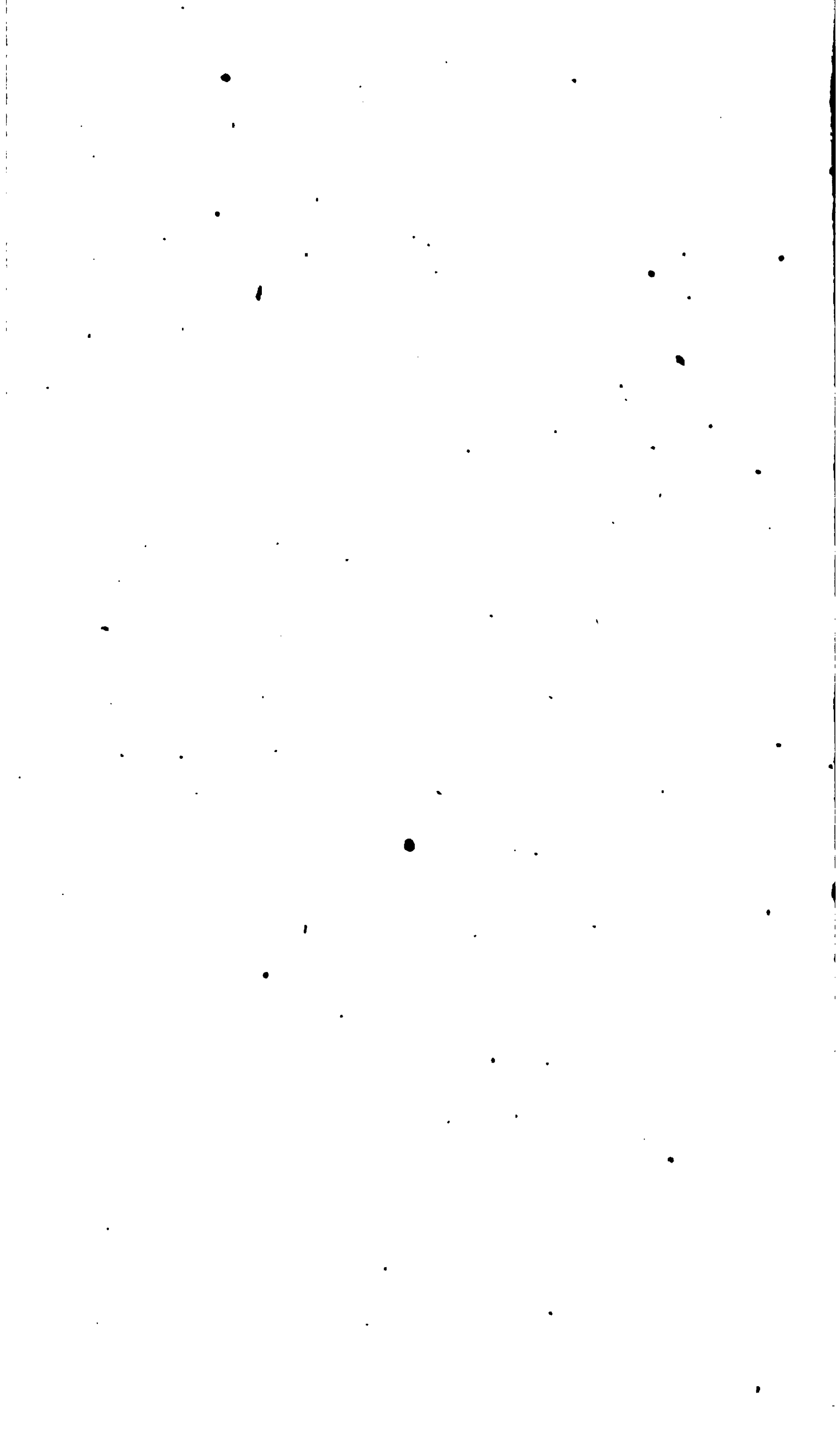
Whereas F G hath produced a deed of conveyance made to him from H I and K his wife, of a certain tract or parcel of land lying and being in the county of _____ in the state of North-Carolina, and procured the same to be proved or acknowledged by the said H I, before I K, one of the judges of the said state (or in the court of our county of C, as the case may be) and it being represented to the said judge, or to our court, that K, wife of the said H I, is an inhabitant of the said state, or of _____ or is so aged and infirm (here as the case may be) so that she cannot travel to the said judge or court of our said county of _____ to be privily examined as to her free consent in executing the said conveyance: Therefore we command you, or any two of you, that at such certain day and place as you shall think fit, you go to the said K, if she cannot conveniently come to you, and privily and apart from her husband, examine her the said K, whether she executed the said conveyance freely and of her own accord, without fear or compulsion of the said H I, her husband; and the examination being distinctly and plainly wrote on the said deed, or on some paper annexed thereto, and when you shall have so taken the said examination, you are to send the same closed up, under the seals of you, or any two of you, together with this writ, unto our said court, to be held for the said county of C, on the _____ Monday next ensuing, in the year of our Lord,

Witness L M, clerk of our said court, at _____ the _____ day of _____
anno domini _____ L. M. Clk C.

1798. C. 31.

Power of
attorney to
convey.

IV. § 1. All conveyances which may hereafter be made by any person under a power of attorney, from any feme covert residing without the state, by her freely executed, jointly with her husband, shall be held good and valid to all intents and purposes, to pass the estate and title which such feme covert may have in such lands, tenements and hereditaments within this state, as are mentioned or included within such power of attorney, whether in fee simple, right of dower, or otherwise. Provided nevertheless, that every such power of attorney, shall be separately acknowledged by the feme covert executing the same, and duly proved as by the laws existing deeds of conveyance by feme coverts are required to be acknowledged and proved.



1810. C. 9.

V. § 1. Where any conveyance for lands in this state, shall be made by husband and wife residing in any of the United States, other than this state, or in any of the territories of the United States, and by them personally acknowledged before some one of the judges of the courts of supreme jurisdiction in said state or territory ; on, where the wife shall personally acknowledge such conveyance before two or more commissioners duly authorised to take such acknowledgment, under a commission issued from some court of record in said state or territory, the wife being first privily examined before said judge or commissioners whether she doth voluntarily assent thereto, and an attestation of such acknowledgement endorsed on or affixed to said deed or commission by the said judge or commissioners, and the certificate of the Governor of the said state or territory duly authenticated and annexed to said deed that the judge before whom such acknowledgment was taken was, at the time of taking thereof, one of the judges of the courts of supreme jurisdiction in said state or territory, or that the court which issued such commission is a court of record, and the person signing said commission is clerk of said court, such deed shall, upon being exhibited to the court of pleas and quarter sessions of the county where such lands lie, or one of the judges of the superior courts, be ordered to be registered, with the certificates and commission endorsed thereon, or annexed thereto ; and when so registered, shall be valid in law to convey all the estate and title which such feme covert may or shall have in any such lands, tenements or hereditaments so conveyed, and shall be received in evidence in courts of law and equity, without further proof.

Manner in which the acknowledgment of femes covert shall be taken, in any of the U. S.

VI. § 2. Any deed for the conveyance of lands in this state, or any power of attorney to convey lands in this state, made by husband and wife who reside in foreign parts, or without the limits of the United States, which shall be personally acknowledged before the mayor, or other chief magistrate of any city, town or corporation, the wife being first privily examined by such mayor or chief magistrate, whether she doth voluntarily assent thereto, and an attestation thereof endorsed thereon or affixed thereto, shall, upon being exhibited to the court of pleas and quarter sessions of the county where such land lies, or one of the judges of the superior courts of this state, be ordered to be registered, and shall be registered in the same manner as if such deed or power had been pro-

How taken when residing in foreign parts.

ved or acknowledged in open court of the county where the lands lie, and shall be valid in law to pass the estate and title of the wife to all such lands, tenements and hereditaments, so conveyed or to be conveyed; and when registered as aforesaid, shall be received in evidence, without further proof.

How power of attorney made in foreign parts shall be proved.

VII. § 3. Any power of attorney to convey lands in this state, made by any person or persons in foreign parts which shall be personally acknowledged or proved before the mayor or chief magistrate of any city, town or corporation, and an attestation thereof endorsed thereon or affixed thereto, shall, upon being exhibited to the court of pleas and quarter sessions of the county where the lands lie, or one of the judges of the superior courts of this state, be ordered to be registered, and shall be registered, in the same manner as if such power had been proved or acknowledged in open court of the county where the lands lie; and when so registered, shall be received in evidence in any of the courts of this state, without further proof of the execution thereof.

1816. C. 32.

Extended to the district of Columbia.

VIII. § 1. The provisions of the act for taking the examination of Feme Coverts in the several states and territories of the United States, touching the conveyances of lands in this state, are hereby extended to the district of Columbia: and that the same modes be there observed for taking and certifying such examinations as are required to be observed in the states and territories, except that instead of the certificate and authentication of the governor, the certificate and authentication of the secretary of state of the United States shall be required: And all examinations of Feme Coverts so taken and certified in said district, shall be as valid to all intents and purposes as if taken and certified according to the said act, in one of the states or territories.

See Abatement.

FENCES.

1777. C. 32.

Height of fence.

I. § 2. Every planter shall make a sufficient fence about his cleared ground under cultivation, at least five feet high, unless where some navigable stream or deep water course shall be, that may be deemed sufficient instead of a fence aforesaid.

Remedy given for the papers on an
closed grounds -
Remedy for unlawfully injuring
Horse in an enclosure without
a sufficient or lawful force
1831.C.2 -

II. § 3. Upon complaint made by any person to any justice of the peace of the county, of any trespass or damages done by horses, cattle or hogs, it shall and may be lawful for such justice, and he is hereby authorised and required to cause to be summoned two freeholders, indifferently chosen, who (together with himself) shall view and examine, on oath whether the complainant's fence be sufficient or not, and what damages he hath sustained by means of the trespass, and certify the same under their hands and seals; and if it shall appear that the said fence be sufficient, then the owner of such horses, cattle or hogs, shall make full satisfaction for the trespass or damage to the party injured, to be recovered before any jurisdiction having cognizance thereof; but if it shall appear that the said fence be insufficient, then the owner of such horses, cattle or hogs, shall not be liable to make satisfaction for such injury or damages as aforesaid. Remedy for damages sustained.

III. § 4. If any person, whose fence shall be adjudged insufficient, shall, with gun, dogs or otherwise, unreasonably chase away, worry, maim or kill any horses, cattle or hogs, or cause the same to be done, such person so offending shall make full satisfaction for all such damages to the party injured, to be recovered as aforesaid. Damages to stock.

1791. C. 26.

IV. § 1. All persons neglecting, during crop time, to keep up and repair their fences in manner directed by 1777, c. 22, shall be liable to be indicted in the court of the county wherein such field shall be situated, and upon conviction of such neglect, shall pay for each offence such sum as the court shall think fit to impose, not exceeding fifty pounds, which shall go to the use of the poor of the county wherein the recovery shall have been had, the concurring testimony of three indifferent witnesses shall be necessary to conviction. Liable to indictment for not keeping up fences.

V. § 2. If any slave hereafter shall kill any cattle, hog or horse, not belonging to his master, in any cultivated field, which is not fenced at all, or which is not under sufficient and lawful fence, he or she shall at any time within six months after be liable to be apprehended on a warrant from any justice of the peace of the county, and on conviction before two of the neighboring justices shall be subject to and receive thirty-nine lashes on his or her bare back; and the owner or overseer of such slave so offending as aforesaid, shall on proof of the offence committed by such slave, pay such damages as shall be adjudged to have been sustained by the owner of the hog, Punishment of slaves for killing stock.

FERRIES.

horse or cattle so killed as aforesaid, by any jurisdiction having cognizance thereof.

FERRIES.

1764. C. .

be . If any person or persons not empowered to keep a ferry, shall pretend to keep any ferry, or to transport any person or persons, or their effects, for pay, within ten miles of any ferry (being on the same river or water) which is already or hereafter shall be appointed, such person or persons so pretending to keep ferry or transporting any person or persons, or their effects, shall forfeit and pay 20s. proclamation money for every such offence to the nearest ferryman, to be recovered by a warrant from any justice of the peace, upon full proof thereof made before him.

1779. C. 10.

to II. § 8. The justices of each county shall once a year, or oftener if necessary, after the first court to be held after the first day of January, rate the prices of such ferries as shall be kept within their respective counties.

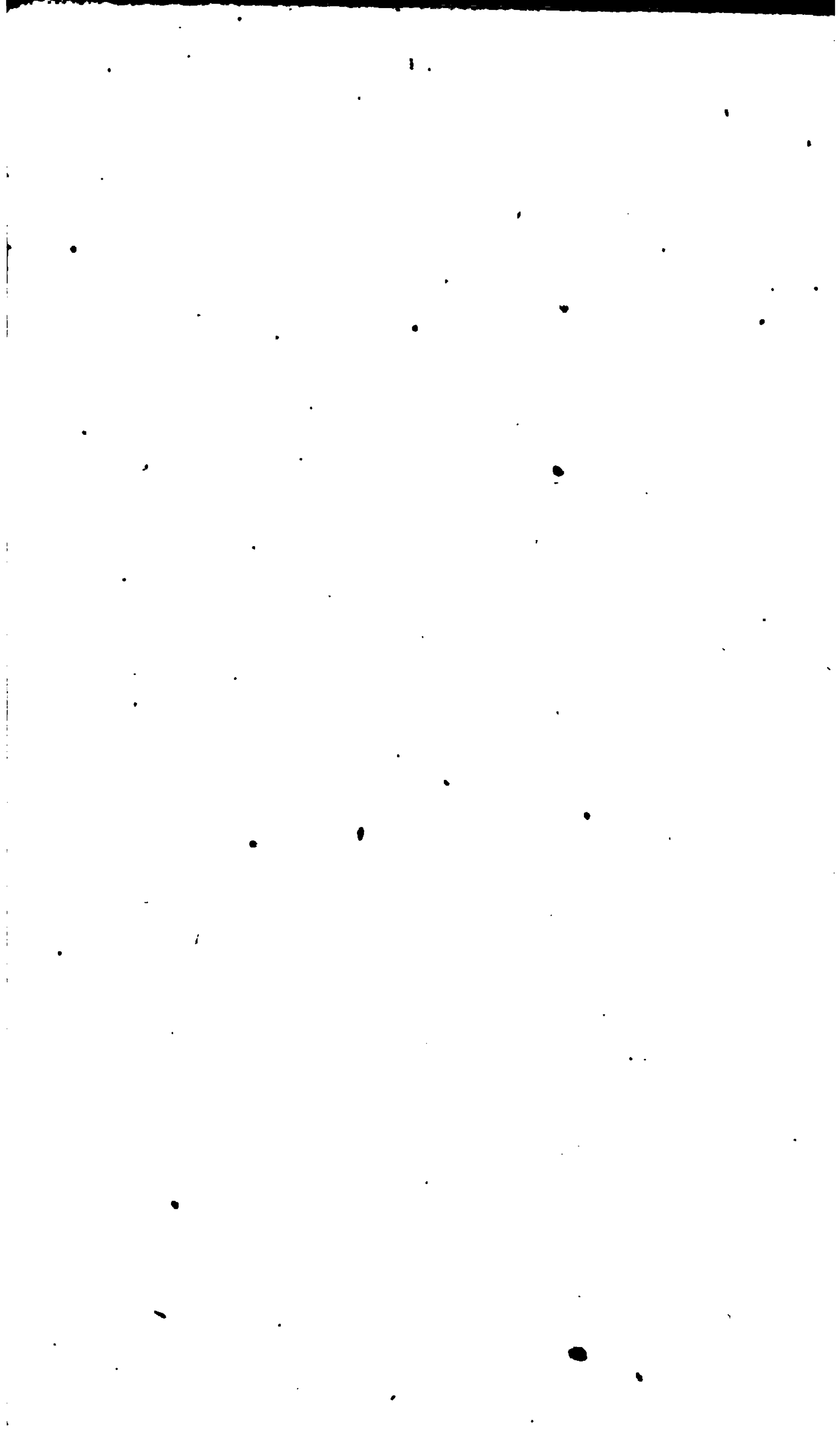
ty III. § 9. Any ferry-keeper who shall ask, demand or receive a greater price for ferriage than shall be rated by the justices according to the directions of this act, shall forfeit 50l.^s for every offence, to be recovered by the informer to his own use, before any jurisdiction having cognizance thereof.

for IV. § 14. If any person or persons who live at or own public ferries in this state, shall refuse to keep up such ferry or ferries at the rates allowed them by their said county courts, every such person so offending, shall for every offence forfeit and pay the sum of 50l.^s to be recovered by any person suing for the same, to his or her own use.

1784. C. 14.

to V. § 1. From time to time and all times hereafter the courts of the several counties in this state shall have full power and authority to appoint and settle ferries.

VI. § 15. The courts of each and every county in this state, shall compel all persons that shall be appointed to keep public ferry, or who shall own a bridge receiving toll within the said counties, to give good and sufficient security in 500l. payable to the chairman of the said county court and his successors; with condition that he or they shall and will constantly find, provide and keep good and sufficient boats, or other proper crafts, and keep such



bridges in good repair, as the case may be, and always to be well attended for travellers or other persons, their horses, carriages and effects, over any river or creek; and if any person shall receive damage by any ferryman or keeper of a toll-bridge, not having complied with the condition of his bond, the person receiving such damage, shall and may bring an action of debt against such ferryman or bridge-keeper on such bond, in the name of the chairman, and recover for the non-performance of the said condition, so much damages as he, she or they shall appear to have sustained, and thereupon take out execution for whatever shall be so recovered, and apply the same to his, her or their own use; and it shall and may be lawful for any person detained at any public ferry by reason of the ferryman's not having sufficient boats or other proper crafts and hands, and by neglecting to do his duty, by a warrant from a justice of the peace, to recover of such ferryman 5l. for every such default or neglect, provided that any such recovery shall not be deemed to bar any action for personal damages suffered by any person or persons by reason of the insufficiency of said ferries and boats thereon, and bridges and causeways,

1787. C. 16.

VII. § 1. Such person or persons as may contract for riding post, or for carrying the mail in stages, shall be authorized to keep a boat, and to employ hands, for the sole purpose of transporting the public mail and such passengers as may travel in the same, across any ferry or ferries, without let or hindrance. Nothing herein shall be so construed as to authorise the contractors for riding post or for carrying the mail by stage, to transport any other passengers across at public ferries than such as travel by the stage. And no person or persons shall pretend to transport any other passengers for pay at a public ferry, unless he or they are duly authorised so to do by the court of the county in which the ferry may be, or of the county from which the passenger may be carried, under the penalty of 5l. for every offence, to be recovered before any justice of the peace to the use of the person who may sue for the same, subject nevertheless to an appeal by the party grieved to the county court.

Mail carriers may keep a boat, &c.

1806. C. 14.

VIII. § 1. In all cases where the proprietor of any ferry shall prefer building a good and substantial bridge over any water course, instead of keeping ferry, he shall be at liberty to do so, under the same rights and in the same manner as the proprietors of ferries may build bridges.

Proprietors of ferries may build bridges.

Toll not to
be higher
than fer-
riage.

same manner by which the ferry is claimed and held, and under the same rules, regulations and restrictions of other toll-bridges heretofore established by law: *Provided nevertheless*, that no more toll shall be demanded for passing any bridge erected in consequence of this act than is granted by law for the ferriage, unless, by agreement with the county court, who are hereby authorised to grant and advance as far as twenty-five per cent. and not more: *And provided further*, that in all such bridges, the proprietor shall erect a draw where any water course is frequently and commonly used by sea vessels or masted boats of considerable burthen.

1813. C. 18.

County-
court not
to appoint
or settle
ferries nor
lay out any
public
road.

IX. § 1. County courts of pleas and quarter sessions shall not appoint or settle any ferry, or order the laying out of any public road, or discontinue or alter such roads as now are or shall hereafter be made, unless upon the petition in writing of one or more persons in the said court filed, and unless such petitioner or petitioners shall make it appear to the satisfaction of the court that all and every such person over whose lands the said road may pass, or whose ferry theretofore established shall be within two miles of the place at which the said petitioner may pray the court to establish a ferry, shall have had twenty days notice of the intention of filing said petition, the court shall cause the said petition to be filed in the clerk's office until the succeeding court, and notice thereof to be posted during the same period at the court-house door, at which court the justices present shall hear the allegations set forth in the said petition, and if sufficient reason be shewn, the court shall have full power and authority to appoint and settle the said ferry or to order the laying out, or to discontinue or alter the said roads as the case may be, in the same manner and under the same rules, regulations and restrictions as in the said act contained.

Appeals
may be
had.

X. § 2. If any person or persons shall be dissatisfied with the judgment, sentence or decree, which the court may pass or pronounce on said petition, such person or persons so dissatisfied may pray an appeal to the superior court of law of the said county, but before obtaining the same shall enter into bond with two or more sufficient securities to be judged of by the said court for the faithful prosecution of said appeal, and for the faithful performance of the judgment, sentence or decree of the said superior court; which bond shall be made payable to the person or persons who shall have filed said petition, or to

Such person or persons who shall have opposed the same as the case may be, and the appeal so granted shall be subject to the same rules and regulations as appeals in other cases from the county courts to the superior courts; and the said superior court shall proceed to hear and determine the said petition, as shall appear right and expedient. *Provided nevertheless,* That nothing in this act contained shall authorise the superior court to interfere in the fixing or regulating the rates of ferriage, tolls of bridges or the distribution or allotment of hands to work under overseers of the public roads. Superior court not to regulate ferriage rates.

See Petitions to the Assembly, Roads, Runaways.

FINES.

1777. C. 2.

§ 93. All fines, amercements, forfeitures and recoveries, on penal statutes hereafter to be levied and received, and those in the hands of the late officers, or any of them, shall be paid to the clerks of the respective courts where the same shall be imposed or recovered, and shall by such clerks be accounted for and paid to the person or persons to whom the same shall be payable; and all such fines, amercements, forfeitures and recoveries on penal statutes, as are or shall be directed to be applied to the use of the state, shall by the respective clerks of the courts of law hereby established, be accounted for on oath, and paid to the treasurer once in every year; and all such fines, amercements, forfeitures and recoveries on penal statutes directed to be applied to any other public or county use, and to be received by any other person or persons, shall be accounted for in like manner, and paid to the person or persons to whom the same is or may be payable; and if any clerk shall fail or neglect to account or pay in manner as is by this act directed, or shall conceal any money or monies which are payable as aforesaid, such failure or neglect shall be deemed, on conviction, a misbehaviour in office, and the clerk so neglecting or failing, shall forever afterwards be incapable of holding any office of trust or profit in this state.

See Indictments, Recognizances, Taxes, and Taxes for County uses.

FIREWOOD,

1784. C. 32.

§ 1. All firewood sold in the towns established within this state by legislative authority, shall be sold by the cord

and no otherwise, and each cord shall contain eight feet in length, four feet in height, and four feet in breadth, and shall be corded by the carter or seller, under the penalty of 20s. for each offence, to be recovered against the owner or seller, before a single magistrate by a warrant, which penalty shall be to the use of the informer.

FIRING THE WOODS.

See Woods.

FISH.

1787. C. 15.

County
courts to
appoint
commis-
sioners to
lay off ri-
vers, &c.

I. § 1. The county courts of pleas and quarter sessions shall be and they are hereby empowered to appoint commissioners to examine and lay off the rivers in their county, and where the river is a boundary between two counties, to lay off the river on the side of the county appointing such commissioners; and further such commissioners shall, in laying off the rivers, allow three-fourths of such rivers for the owner or owners of the same, for the purpose of erecting stops, dams and stands, and one-fourth part, including the deepest water of the river and creeks, they shall leave open for the passage of fish, marking and designating the same in the best manner they can, and where any mill or mills are built across any such river or rivers, and slopes are or may be necessary, commissioners shall be appointed as above, who shall lay off such slope or slopes, and determine the length of time such shall be kept open; and such commissioners shall and they are hereby required to return to their respective county courts a plan of such falls, dams and other parts of rivers as may have been thought necessary to survey as above.

Penalty for
erecting
dam.

II. § 2. All and every person or persons, who shall hereafter erect any stand, dam, weir or hedge, in such part of the river as by this law is required to be left open for the passage of fish, or who shall not make and keep open any such slope as the commissioners may judge necessary, shall forfeit and pay five pounds for every twenty-four hours any person shall keep up, erect, or make any such stop, dam, stand, weir or hedge, or dam up or stop any such slope, to be recovered by any person suing for the same, one-half to his own use, the other half to be applied to the use of the county, either by warrant before a justice of the peace, or in a court of law, as the case may require.



1796. C. 6.

III. § 1. No person shall set or cause to be set, any ^{He set to} set of any description across the main channel of any na- ^{be set a-}avigable river or creek in this state, under the penalty of ^{cross chan-}rel. 20l. to be recovered by any person suing for the same, to his or her own use, before any jurisdiction having cognizance thereof.

IV. § 2. If any servant or slave shall be guilty of the ^{Slaves how} aforesaid offence, without the knowledge or consent of ^{punished} his or her master or mistress, he or she so offending, ^{for this of-} shall have and receive thirty nine lashes on his or her bare back.

V. § 4. Any person or persons may work or haul their scins across any of the rivers or creeks as heretofore in use.

For private acts regulating this subject, in respect of particular rivers and creeks, see acts of 1792, ch. 30; 1793, ch. 39; 1794, chs. 34, 56 & 86; 1796, chs. 72 & 80; 1797, ch. 43; 1798, ch. 97, &c.

FOREIGNERS.

1780. C. 28.

Any suit commenced in the superior court by or against any subject or citizen of such state—[which hath acknowledged or shall acknowledge the independence of the United States of America]—shall be heard and tried in the term to which the process shall be returned regularly executed, or so soon as may be; and to this end subsequent process may issue to compel appearance, returnable to any day in the same term, and rules to bring the matter in dispute to speedy issue may be given, to expire at any shorter time than what is prescribed in ordinary cases. If such suit be commenced in the county court, it may, without any other reason, on the motion or petition of either party, be removed by writ of certiorari into the superior court of the district, and the hearing or trial thereof shall be accelerated by like means, as if it had originated in such superior court, and the superior court shall determine every such suit brought before them by writ of error or appeal, with all the expedition which the necessary forms of their proceedings will allow.

FORFEITURES.

See Fines.

FORGERY.

1801. C. 6.

I. § 1. From and after the first day of April next, if ^{Writings described.} any person or persons, of their own head and imagination or by false conspiracy or fraud with others, shall wittingly and falsely forge or make, or shall cause or wittingly assent to be forged or made, or shall shew forth ^{in evidence} knowing the same to be forged, any deed, lease or will, or any bond, writing obligatory, bill of exchange, promissory note, endorsement or assignment thereof, or any acquittance or receipt for money or goods or any receipt or release for any bond, note, bill, or any other security for the payment of money, or any order for the payment of money or delivery of goods, with intent, in either or any of the said instances, to defraud any person or corporation, and shall thereof be convicted, in any of the superior courts of law in this state, such person so offending shall, for the first offence, be adjudged to stand in the pillory one hour and receive thirty-nine lashes on his bare back, and be imprisoned not less than six months, and fined at the discretion of the court; and for the second offence, shall, on conviction, suffer death without benefit of clergy.

English
men for
1st offence
For second
Act 5th
Elizabeth
declared
void,

II. § 2. Doubts having arisen whether an act passed in the fifth year of the reign of Elizabeth, entitled, "An act against forgery of false deeds and writings," is now in force, it is enacted, that the said act, and every part thereof, is hereby declared to be of no force or effect within this state.

See Tobacco, Marriages.

FORNICATION.

See Vice and Immorality.

FRAUDS AND FRAUDULENT CONVEYANCES.

1715. C. 38.

I. § 8. All and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or of any of them, by writing or otherwise; and all and every bond, suit, judgment and execution, at any time had or made since the first of January 1714, or at any time hereafter to be had or made to or for any intent or purpose, to delay, hinder or defraud creditors and others of their just and lawful actions, debts and accounts, shall be from henceforward deemed and taken to be void.

What in-
struments
void.

Frauda

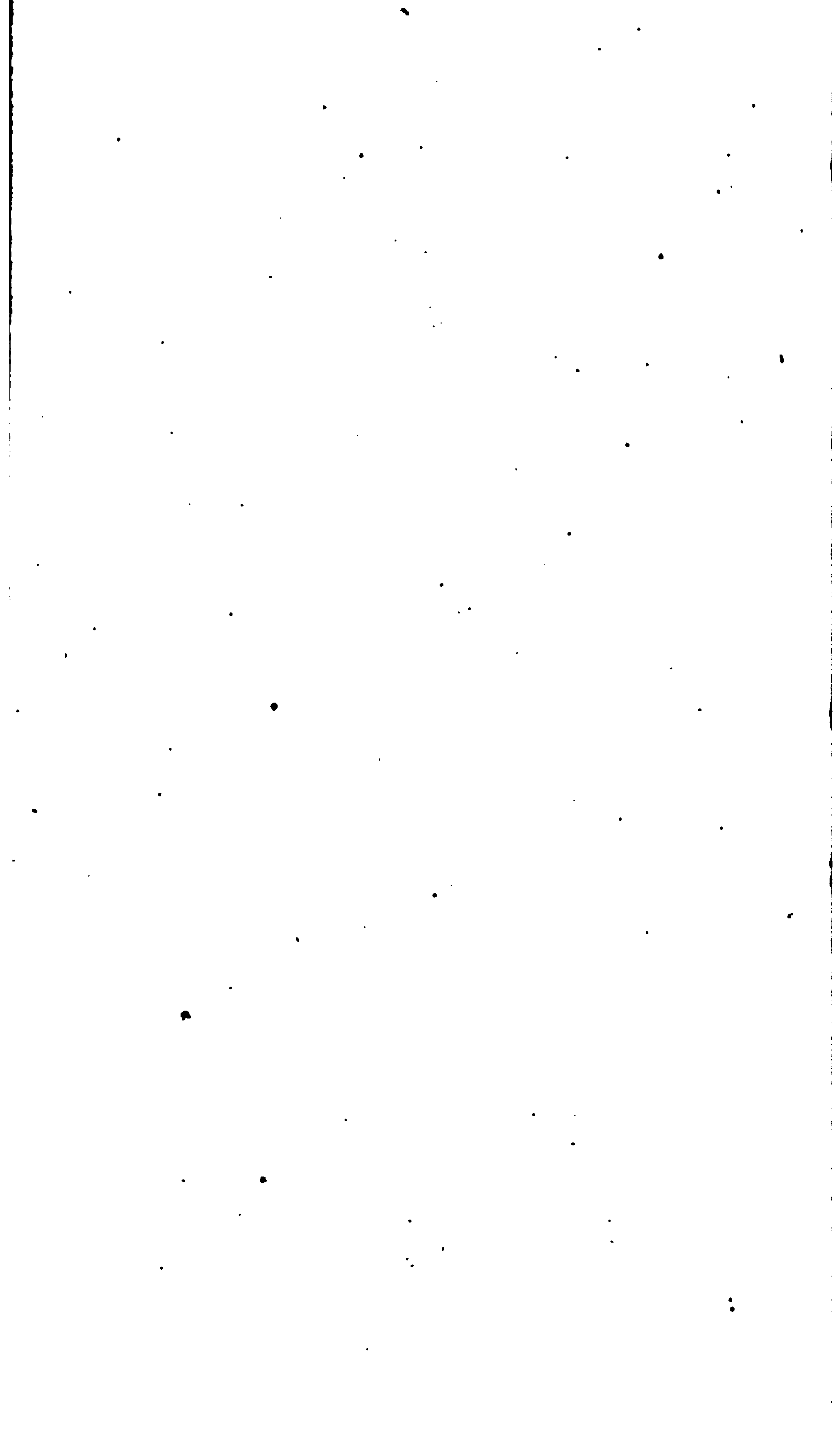
After the first of January 1828 no action
to be brought whereby to charge an Ex^r or a dec^r
upon a promise to answer damages out of his
own estate - or to charge a debt upon a sim-
ilar promise to answer ^{the debt of another person}
unless there be some note in writing -
1826. C. 10 -

Contracts for land & shares must
be in writing after 1 January
/821 - 1819 C. 1016 - 2 L. C. 1473

How written wills may be
revoked - 2 L. C. 1486 - ad 9.

~~1819~~ 1819 C. 1004 -

Deeds of trust & mortgage only valid for
time of registration
1829 - C. 20



ken, only as against that person or persons, his or their heirs, executors, administrators or assigns, and every of them, whose actions, suit, debt, accounts, damages, penalties and forfeitures, shall release by such covenous or fraudulent devices and practices as is aforesaid, or shall or might be in any wise disturbed; hindered, delayed or defrauded, to be clearly and utterly void, frustrate, and of no effect; any pretence, colour, feigned consideration, or expressing of use, or any matter or thing to the contrary notwithstanding.

II. § 9. All and every the parties to such feigned, covenous or fraudulent feoffments, gifts, grants, alienations, bargain, conveyance, bonds, suits, judgments, executions, or other things before expressed, and being privy and knowing of the same, or any of them, which at any time after the first day of August next coming, shall wittingly and willingly, put in use, maintain, avow, justify or defend the same, or any of them, as true, simple, and done, had, or made bona fide, and upon good consideration; or shall alien or assign any lands, tenements, goods or things before mentioned, to him or them conveyed, as is aforesaid, or any part thereof, shall incur the forfeiture of the real value of the lands and tenements, goods and chattels, one moiety thereof to the lords proprietors,^a and the other moiety to the party grieved, and intended to be defrauded thereby.

The penalty.

^a See penal laws and penalties.

III. § 10. Nothing herein shall impeach, defeat or make void any conveyance or assurance, interest, limitation of use or uses of, in, to, or out of any lands or tenements heretofore at any time had or made, or hereafter to be bona fide made, upon and for good considerations, to any person or persons whatsoever.

Conveyances on good consideration.

IV. § 16. All penalties and forfeitures in this act mentioned, shall be recovered by bill, plaint or information, in any court of record in this government; wherein no injunction, protection or wager of law shall be allowed or admitted of.

Penalties recovered.

1789. C. 39.

V. § 2. All devises of lands, tenements and hereditaments, or of any rent, profit, term or charge out of the same, shall be deemed and taken only as against creditor or creditors, his, her and their heirs, successors, executors, administrators and assigns and every of them, as null and void; and every such creditor shall and may have and maintain his, her or their action or actions against such devisee or devisees, in all cases and in like

Devises as against creditors void.

manner as such action or actions might or could be brought or maintained against the heir or heirs at law of such deceased debtor, jointly with the heir or heirs at law, or severally by virtue of this act,

1791. C. 12,

When
committed
on public
officers.

VI. § 3. When any fraud or deceit shall be committed in or upon any of the public officers of this state, the person appointed to or who has the charge of such office, shall give immediate information thereof to the attorney or solicitor-general, as the case may be, whose duty it shall be, when such fraud or deceit shall be an indictable offence, to take all legal measures to prosecute the person or persons so offending with effect: and on all indictments in such cases, the person in whose office such offence hath been committed, shall be endorsed as prosecutor in his public or official character.

1793. C. 16.

Eci. to
try fraud.

VII. § 5. When the sheriff of any county in this state returneth on the execution in his hands that there is no property to be found belonging to the defendant in his county, and it is suggested by the plaintiff that the defendant has fraudulently made away with his property, for the purpose of avoiding the payment of the execution, notice in the nature of a scire facias, on motion of the party plaintiff, shall be directed by the court to issue to the person or persons in whose hands such property is supposed to be held, and on return of the said scire facias executed as other original process, an issue shall be made up whether any fraud or concealment of his property hath been made by the defendant to the person cited or noticed, or whether the same hath been made over to avoid the recovery aforesaid, without just and valuable consideration; and if the jury shall find such fraud, concealment or making over as aforesaid, they shall also, specify the property so fraudulently concealed or made over, and execution shall issue against the same, in the hands of the garnishee, or person notified, in the same manner as against the defendant himself, until the judgment shall be satisfied, should such property be sufficient for that purpose.

1806. C. 9.

Course to
be taken
where the
property of
a person is
fraud.

VIII. § 1. Upon any judgment rendered, or which shall be hereafter rendered in any court of record in this state, if the plaintiff by himself, his agent or attorney in fact, will make an affidavit stating that the defendant has no visible property to satisfy the same, or on which an

execution can be levied, and that he or she has good reason to believe that the defendant has fraudulently conveyed his or her property to avoid or delay the payment of his or her just debts, or that some other person or persons is or are in possession of property belonging to said defendant, and conceals the same, the court in which the said judgment hath been or shall be rendered, shall and may at any time while the said judgment is in force, order a scire facias, or scire faciases, as the case may be, to be issued against and served on the person or persons claiming any estate, real and personal, under any such conveyance; or any person or persons charged in the affidavit with concealing any money, goods or other estate, for the use of the defendant, or for the purpose of enabling him or her to avoid or delay the payment of his or her just debts, in which he, she or they shall be commanded to appear at the next succeeding term, and declare upon oath, and in writing, whether he or she holds, or is in possession of, or claims title to any money, goods, or other estate, real or personal, under any conveyance made by the defendant upon any secret trust; and whether he or she holds or is in possession of any money, goods or estate, or was at the time of rendering said judgment, or at any time since, in possession of any money, goods or other estate under any secret delivery, to hold the same for the use of the defendant, or any other person, to enable him or her to avoid the payment of his or her just debts; and if the scire facias shall be returned served by delivering a copy to the party against whom it issues, or by leaving a copy at his or her dwelling, and the party shall appear, the court shall proceed to require a declaration from him or her on oath as aforesaid; and if the party so called into court shall acknowledge that he or she does hold or claim property of the defendant in manner aforesaid, the court shall and may order the same to be delivered up or made subject to the judgment of the plaintiff; or in case the same or any part thereof shall be money, or in case any part of the property shall have been used, wasted or destroyed by the party, the court may give judgment for the plaintiff against such party, for the amount and value of the money then held, (or which has been used, as also for the value of any other property to be ascertained by a jury) used, wasted or destroyed, and acknowledged as aforesaid to have been received in manner aforesaid, for the use of the defendant, or any other person as aforesaid; but in case any person called into

leftly conveyed to injure his creditors

court in manner aforesaid, shall deny that he or she holds or is in possession of, or claims title to any property, real or personal, conveyed or delivered for the purpose of enabling the defendant to avoid or delay the payment of his or her just debts, or that he has held any such property, and used or wasted the same, the plaintiff may, if he or she thinks proper, require an issue to be made up, and the facts tried by a jury, as in other cases, and judgment shall be given accordingly with costs; and in case any verdict and judgment shall be given in favor of any person called on under any scire facias, or in case he or she shall be discharged by his or her declaration on oath without the trial of any issue, he or she shall be entitled to the same costs as if he or she had been originally sued in said action.

Where the party fails to appear judgment may be entered by default.

IX. § 2. In case any scire facias shall be returned served in manner herein directed, and the party against whom the same issued shall fail to appear, the plaintiff may enter against him or her a judgment by default; but before executing any writ of enquiry, or entering up any final judgment, a second scire facias shall issue to the party requiring him or her to appear and shew cause why final judgment should not be entered up for the amount of the plaintiff's demand, or the amount which the plaintiff shall in his affidavit state to have been in the hands or possession of such party; for which amount, upon the service of said sci. fa. in manner herein directed, the plaintiff may enter up judgment against said party, with costs as aforesaid.

Mode of proceeding when judgment is given by a justice of peace.

X. § 3. When any judgment shall be given by any justice of the peace out of court, the plaintiff may make an affidavit, in manner herein directed in courts of record, on which he shall be entitled to carry up to the next succeeding court of pleas and quarter sessions to be held for the county in which said judgment is given, with the said affidavit, the warrant, judgment, and all papers relating thereto; and upon which the said court, upon motion made by the plaintiff, shall and may order a scire facias in manner herein directed, which shall be proceeded on in the same manner as if the suit had been originally instituted in said court.

See Lands, Trust Estates, Widows.

FREEHOLD.

See Indictments.

FREEMEN.

See Indictment, Slaves.

FUGITIVES.

FREE NEGROES, MULATTOES, AND PERSONS OF MIXED COLOUR.

See Slaves, Witnesses, Woods.

FUGITIVES.

1800. C. 20.

It shall be lawful for the governor for the time being, on information already made to him, or hereafter to be made, of any person or persons having committed any offence of a capital nature within this state, and of having fled beyond or out of the jurisdiction thereof to any of the United States, either to employ a special agent with a sufficient guard or escort to pursue and apprehend such fugitive or fugitives from punishment, or to issue his proclamation, and therein and thereby offer a reward not exceeding 200l. according to the nature of the case, as in his opinion may be sufficient for the purpose, to be paid to such person or persons as shall apprehend such fugitive or fugitives, and deliver him or them to such person at such place as in said proclamation shall be directed. And it shall also be lawful for him from time to time, to issue his warrants on the public treasurer for sufficient sums of money to defray the expences of such special agent and guard or escort, or to pay the reward offered by such proclamation upon the delivery of such fugitive in manner as therein directed, for which sum or sums of money the treasurer shall be allowed in the annual settlement of his accounts.

Manner of pursuing fugitives.

A reward to be offered not exceeding 200l.

1810. C. 3.

II. § 1. From and after the first day of January next, any judge of the superior court of law and equity, or any two justices of the peace, on satisfactory evidence adduced that any fugitive has committed within the United States, any petty larceny or other offence, the punishment whereof shall extend to affect life, limb or member, shall have full power and authority to commit such fugitive to any jail within this state, for the space of six months, unless sooner demanded, agreeably to the directions of an act of Congress in such case made and provided.

A judge or 2 justices may commit for six months.

III. § 2. If no demand is made within said term of time, then said fugitive shall again be liberated; any law, usage or custom to the contrary notwithstanding.

FUNDS.

See Sinking Fund, Salaries.

H 2.

GAMING.

1788. C. 5.

Securities
void.

I. § 1. Every promise, agreement, note, bill, bond or other contract, to pay, deliver or secure money or other thing won or obtained by playing at cards, dice, tables, tennis, bowls or other games, (horse-racing excepted) or by wagering or betting on either of the parties who shall play at such games, or to repay or secure money or other thing lent or advanced for that purpose, or lent or advanced at the time of such gaming, playing, betting, laying or adventuring, shall be void; and every conveyance or lease of land, tenements or hereditaments sold, demised or mortgaged, and every sale, mortgage or other transfer of slaves or other personal estate, to any person, or for his use to satisfy or secure money so won, lent or advanced, on due proof made before any jurisdiction having cognizance thereof, shall be and is hereby declared void.

1791. C. 5.

Public ga-
ming ta-
bles prohi-
bited.

II. § 3. All public gaming tables, such as E O, A B, and A B C, faro banks, pass die tables, and all others of whatever nature, or by whatever name or denomination they shall be called, are hereby totally forbidden to be used in this state by any person or persons whatever. And all justices of the peace and the commissioners of police of the several towns in this state, are hereby authorised and directed, in case of information made to them or any of them on oath, that such gaming table in the possession and use of some person within the limit of their jurisdiction, to destroy and annihilate the same by every means in their power. And each and every person who shall offer to keep up or use the same after the first day of May next, shall be subject to the penalty of 1000l. to be recovered in an action of debt by any person suing for the same, the one half thereof to be appropriated to the use of the party informing, the other half to the use of the state. Provided always, that billiard and back gammon tables shall not come under the meaning and purview of this act.

Penalty for
gaming ta-
bles.This penal-
ty extends
not to billi-
ard & back
gammon
tables.

1794. C. 33.

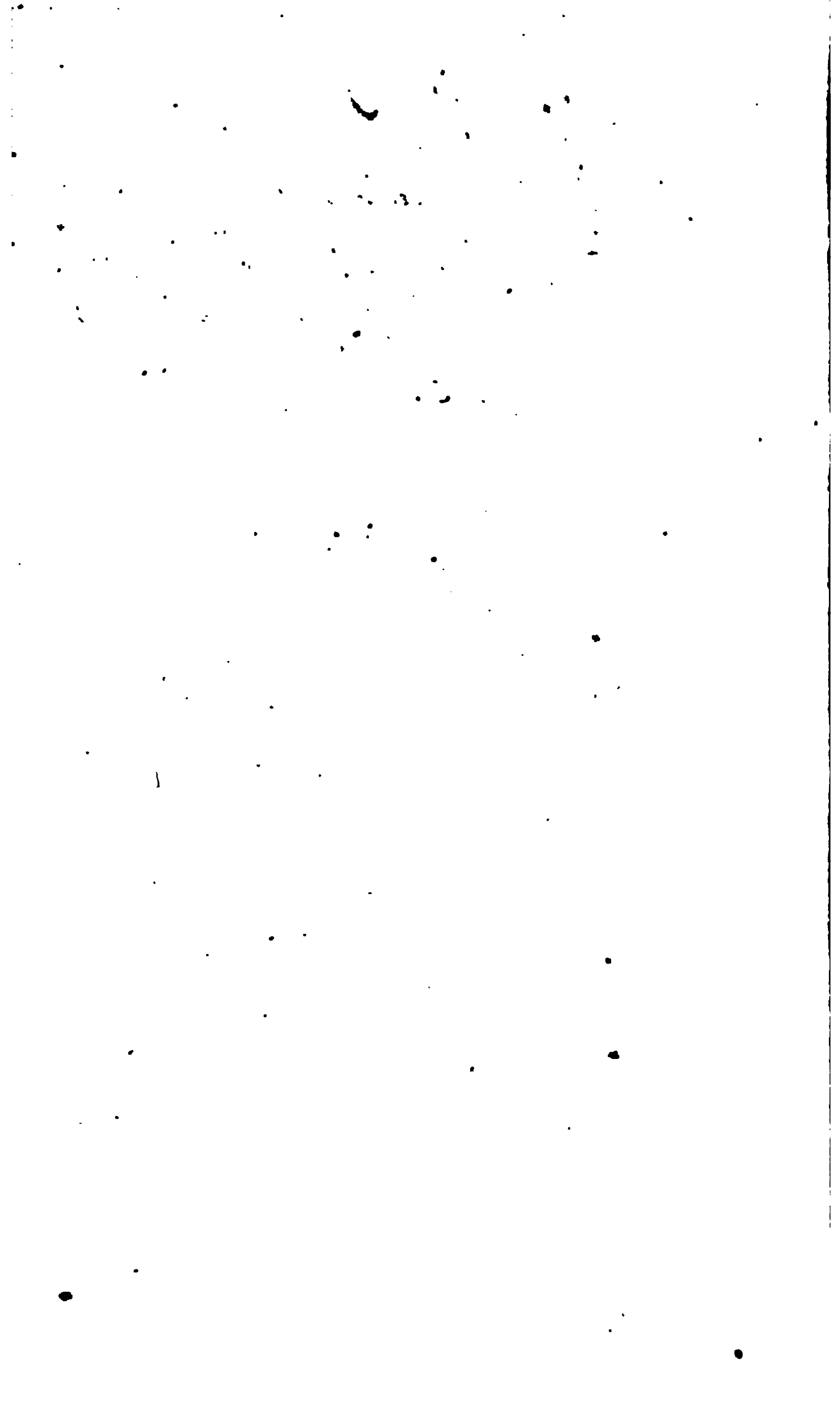
Billiard or
other ta-
bles not to
be kept
near the U-
niversity.

III. No person shall set up or shall keep up any billiard table, or any other table or device for playing at any game of hazard, within five miles of the University; and if any person or persons shall set up any such gaming table, or having set up the same, shall continue it after the 1st of May next, he or they so offending shall forfeit and

An act to suppress gaming -

Any person who shall construct, erect, keep up
or use any public gaming table or place at
which games of chance shall be played, shall be
subject to indictment upon conviction shall be fined
not less than \$200 - & imprisoned not less than
one calendar month -

Any person who shall play liable to indictment
shall be fined not less than \$10 -
1835 C.B. -



pay the sum of 50*l.* to be recovered in any court having cognizance of the same, one half for the use of the informer, and the other half for the benefit of the state. Penalty.

1798. C. 19.

IV. § 1. All monies exhibited for the purpose of alluring persons to bet against at any game, and all monies actually staked or betted whatsoever, and all species of other property, shall be liable to be seized by any justice or justices of the peace, or by any other person or persons under a warrant from a justice of the peace, wheresoever the same may be found; and all such monies so seized, shall be accounted for and paid by the person or persons making the seizure to the wardens of the poor of the county wherein the seizure shall be made, and applied by the said wardens in aid of the poor tax, deducting thereout fifty per centum upon all monies so seized, to be paid to the person or persons making the said seizure. Monies & property offered to be staked seizable.

V. § 2. All gaming tables, of what name or denomination they shall be called, are hereby totally forbidden to be used in this state by any person or persons whatever; and all justices of the peace, commissioners of police, sheriffs or constables, are hereby authorised and directed, in case of information made to them, to seize and destroy the same, by every means in their power. All gaming tables prohibited. See p. 12.

VI. § 3. Any person whatsoever, who shall suffer the game of billiards, or any of the games played at the tables commonly called A B C, E O, or faro bank, or any other gaming tables or bank of the same or like kind, under any denomination whatever, to be played in his or her house, or in a house of which he or she hath at the time the use or possession, shall for every such offence forfeit and pay the sum of 100*l.* to be recovered in any court of record, by any person suing for the same. Penalty for suffering any game to be played in one's house.

VII. § 4. Any person who shall oppose the destruction of any of said tables, or the seizure of any such monies as above described, by any person or persons so authorised to make it, shall be liable to a penalty of 500*l.* to be recovered in any court of record, for the use of the state, and shall be further liable to the action of any party grieved by such opposition; and any person or persons who shall take or carry away any part of the said money after the said seizure, shall be guilty of a misdemeanor, and liable to be indicted or presented therefor, and on conviction fined at the discretion of the court trying the same. Penalty for opposing a destruction of tables or seizure.

VIII. § 5. It shall be the duty of the judges of the superior courts and justices of the county court, to give this This act to be given in charge.

Act in charge to the grand jury at the time when such grand jury shall be sworn.

1799. C. 12.

Playing at
cards, the
penalty.

IX. All persons who shall hereafter play at any game of cards in any public house or tavern, and bet any money or property, whether the same be in stake or not, or any person or persons who shall bet on any game at cards, shall on conviction forfeit and pay for each and every offence the sum of 40s. recoverable before any justice of the peace, one half to the informer, the other half to the use of the poor of the county. And if any keepers of a public house or tavern shall knowingly suffer or willingly permit any game of cards to be played in said public house or tavern, for money or other kind of property, he shall forfeit and pay the sum of 5l. for every offence, to be recovered in like manner one half to the use of the informer, the other half to the use of the poor of the parish.

1800. C. 10.

Duty of
sheriffs to
sue.

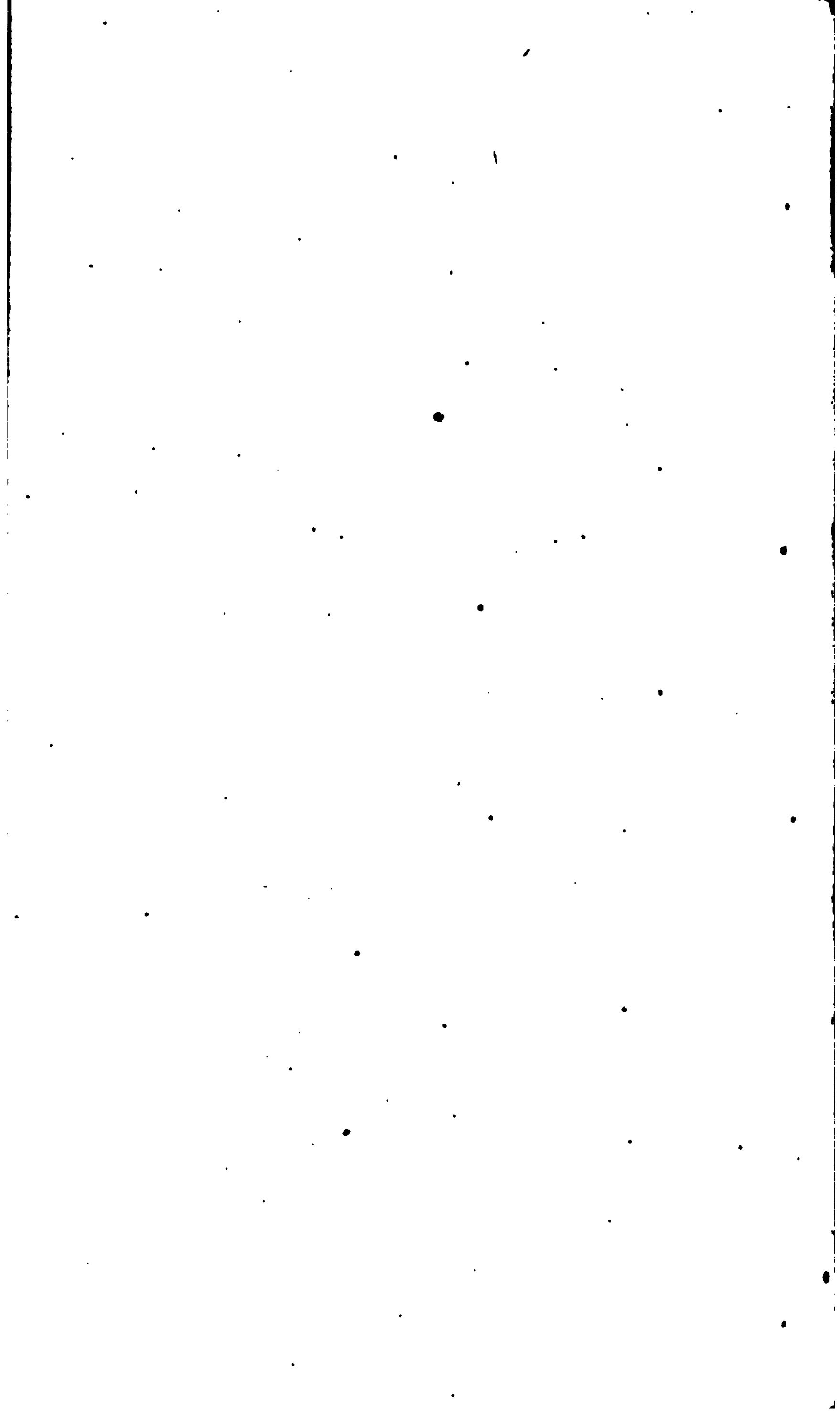
X. It shall be the special duty of sheriffs of each county in this state to sue for and recover, in the name of the governor for the time being, the penalty set forth in 1798, c. 19, § 3, from any person who may suffer any of the games therein mentioned to be played in his or her house; for which services the sheriff so suing and recovering, shall be allowed twenty per centum; and every sheriff who shall fail or neglect, after information to him made, or shall, after the same may come to his knowledge, fail to sue for and perform the duties by this act required, shall forfeit and pay 25l. to be recovered before any court having jurisdiction thereof, to the use of the person suing for the same, and pay the costs of prosecution.

1801. C. 17.

Tavern
keepers'
fines, &c.

XI. If any tavern-keeper, ordinary keeper, or keeper of a house of entertainment, shall suffer any of the games mentioned in the several acts of the General Assembly of this state to prevent excessive gaming, to be played in his or her dwelling house, or in any outhouse, or on any part of the premises whereon he or she lives, or shall furnish such persons with drink, or any thing for their comfort and subsistence during their time of playing, he or she shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined a sum not less than 5l. And every person playing at any of the said games, in manner above described, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined a sum not less than 5l.

Every retailer of spirituous liquors
who shall suffer gaming to be played
in his house or who shall permit
person playing with mead &c &c
shall be guilty of a misdemeanor
& indictable. 1847. c 26.



1817. C. 1.

XII. § 16. Owners of billiard tables shall hereafter give them in, in the same manner as other taxable property, and shall pay for each billiard table a tax of five hundred dollars, to be levied, collected and accounted for in the same manner as other taxes, and the sheriff shall collect the tax on billiard tables within this county whether the same shall have been there on the first day of April or not, and whether the same shall have been erected on that day or not, unless the person having such table in possession shall produce the receipt of the sheriff of some other county for the said tax; and if the tax on a billiard table shall be unpaid after the same is due, and after having duly advertised the same, the sheriff shall expose the same to sale, and if no person bid for the said table the amount of the tax and charges, the sheriff shall bid off the same and immediately thereafter, in presence of two Justices or two Freeholders, and burn and destroy the same and every part thereof, and upon the affidavit of said sheriff and attestation of the justices or freeholders, the said sheriff shall be allowed the same in his settlement with the Treasurer.

A tax of
250l. a year
on Billiard
tables.

GAOLS.

See Prisons.

GARNISHES.

See Attachment, Justices.

GENERAL ASSEMBLY.

1795. C. 11.

The Meetings of the General Assembly shall be on the third Monday of November in each and every year.

Governor, Impeachments, Legislature, Petitions, Seat of Government, Secretary.

GIFTS.

1784. C. 10.

I. § 7. Deeds of gift of any estate of whatever nature shall be proved in due form, and recorded within *twelve months after the making thereof*; and all deeds of gift not authenticated and perpetuated in the manner by this act directed, shall be void and of no force whatsoever.

Deeds to
be recorded.

1806.

I. § 1. No gift hereafter to be made of any slave or slaves shall be good or available, either in law or equity,

No gift of slaves shall be valid, except made in writing.

The writing to be registered.

unless the same shall be made in writing, signed by the donor, and attested by at least one credible subscribing witness; neither shall such gift be valid, unless the writing by which the title of any slave or slaves is transferred shall be proved or acknowledged, as conveyances of land, and registered in the office of the public register of the county where the donee resides, within one year after the execution thereof, if the donee be in the actual possession of the slave or slaves so given and transferred; but if, under any special agreement made at the time of the gift, the donor shall remain in possession of the slave or slaves so given, then the writing transferring or conveying the same slave or slaves shall be proven or acknowledged as aforesaid, and registered within the same time, in the county where the donor resides.

On trials, the execution of the writing to be proved.

II. § 2. On all trials where any such writings shall be introduced to support the title of either party, the due and fair execution of such writing shall be proved by a witness subscribing and attesting the execution of such writing; but if such witness shall be dead or removed out of the state, then the probate or acknowledgment and registration of such writing may be given in evidence.

Claims under parole gifts to be made within 3 years.

III. § 3. Every person claiming title to any slave or slaves, by virtue of any parole gift heretofore made, shall commence and prosecute his or her suit for the same, within three years from the passing of this act, otherwise the same shall be for ever barred: Provided however, that if any such person or persons be, at the time of passing this act, within the age of twenty-one years, non compos mentis, feme covert, imprisoned or beyond seas, such person or persons shall, within three years next after full age, coming of sound mind, discovery, enlargement out of prison or return from beyond seas, commence and prosecute his or her suit for any such slave or slaves, claimed by force of such parole gift, and not afterwards: Provided, that when any person shall have put into the actual possession of his or her child or children, any slave or slaves, and the said slave or slaves shall remain in the possession of such child or children at the time of the death of such person, he or she dying intestate, such slave or slaves shall be considered as an advancement to such child or children, and be regulated by the laws now in force relating to advancements made to children by a parent in his life-time.

When slaves are put in possession of children to be considered as advancements.

GOVERNOR.

1780. C. 9.

I. § 3. It shall and may be lawful for the governor or commander in chief, with the advice of the council of state, to call a meeting of the General Assembly, if the same shall be absolutely necessary, at a sooner day than the same may stand adjourned to or appointed to meet. To call the General Assembly.

1794. C. 8.

II. § 2. Whenever the governor shall conceive it necessary to convene the council of state, such meeting shall be in the city of Raleigh, unless an invasion, insurrection or contagious disease, shall render it advisable to call them elsewhere. Council of State to meet in Raleigh.

1798. C. 27.

X. § 1. His excellency the governor of this state, and every governor that may hereafter be appointed, shall make the city of Raleigh their place of common residence during the time they continue in office: any law to the contrary notwithstanding. Providing, that the governor, as often as it shall be necessary for him to be absent from the city of Raleigh for any longer time than ten days, shall cause to be notified in one or more of the newspapers of the most general and extensive circulation in the state, the time of his intended absence, the place of his destination, and that the governor's secretary shall constantly reside in the city of Raleigh during his absence. To reside in Raleigh.

1292 C 25.

IV. § 1. The governor for the time being shall reside permanently in the city of Raleigh during his continuance in office. To reside permanently at Raleigh.

1813. C. 8.

V. § 1. The Treasurer, Comptroller, Secretary of State, and Henry Potter, Henry Seawell, William Hinton, Nathaniel Jones, (Crabtree,) Theophilus Hunter and William Peace, are hereby appointed Commissioners for the purpose of designing and causing to be erected on such part of the public lands near the city of Raleigh as they may deem most proper, a convenient and commodious dwelling house, together with such outhouses as to them shall appear necessary, for the accommodation of the chief magistrate of this State for the time being; and for the purpose of raising the necessary fund for the object aforesaid, Adwelling house to be built.

VI. § 2. The said commissioners or a majority of them, shall have full power and lawful authority to sell and convey in fee simple by instruments of writing, from and to any person or persons, any lot or lots of land to be sold. Lot 11, & other public land to be sold.

their hands and seals, the lot number one hundred and thirty one in the city of Raleigh, and the houses thereon, occupied at present by the Governor; and all or any part of the public lands contained within the deed of Joel Lane to the Governor for the use of this state, and adjoining the city of Raleigh, on the north, the west and south sides thereof, that is to say, not east of Person street nor east of Sugg's branch.

Lots to be
laid off and

VII. § 3. The said Commissioners shall lay off or cause to be laid off into convenient lots, of such size as to them may seem most proper, all or such parts of the lands above described as they may deem most advisable; and also lay off the lot number one hundred and thirty one in the city of Raleigh the present residence of the Governor, into convenient building lots.

valued

VIII. § 4. When the said lands and lot number one hundred and thirty-one shall be laid off as aforesaid, it shall be the duty of the Commissioners or a majority of them, to make an estimate of the value of each lot of land and the several parts of the lot now occupied by the Governor, and deposit the same with the Treasurer; and they shall not communicate to any person previous to the sale, the affixed value to any lot.

IX. § 5. The said Commissioners shall cause to be laid off within the line above described, a lot not less than six, and not exceeding ten acres for the purpose of erecting thereon suitable houses for the accommodation of the Governors of this State.

Lots to be
sold at
public auc-
tion

X. § 6. The said Commissioners shall cause to be set up at public auction the said lots of land, together with the lot number one hundred and thirty-one, and the buildings thereon, first giving sixty days notice by advertisement in the newspapers printed at Raleigh, of the time and place of sale: *Provided always*, That the Commissioners shall adopt effectual measures to prevent the bidding off any lot for a less sum than the previous estimation, nor shall any title be made until the purchase money shall have been paid—*Provided* That, nothing contained in this act shall be construed to empower the Commissioners to sell the four unappropriated lots which are situated in the corners of the city.

Conditions
of sale.

XI. § 7. The purchasers of the lots of lands shall have a credit of six months for one half the purchase money, twelve months for the balance, on giving bond with sufficient security, payable to the Governor, and negotiable at the State Bank; and the lot number one hundred and

thirty-one shall be sold upon the condition that the purchaser or purchasers shall not have possession until other buildings to be provided for the accommodation of the Governor be compleated, and the purchasers shall be entitled to a credit of six months after being entitled to take possession of said lots, on securing the payment as aforesaid.

XII. § 8. The spring on the public land, north of the city, commonly called Rex's spring, and all such other springs as shall be deemed of public utility by the Commissioners aforesaid, together with such quantity of land around the same, as the commissioners shall deem necessary, shall be reserved for public use. Public springs reserved.

XIII. § 9. The said Commissioners shall contract with persons for erecting buildings for the residence of the Governor, with suitable offices and outhouses, the principal building, and such others as the Commissioners shall think fit, to be of brick or stone, not exceeding in the cost of the whole, five thousand pounds; and having taken bonds payable to the Governor, with security, for the due performance of the undertaking on the part of the contractor, may pass to him any of the bonds received for payment of lots of lands sold as aforesaid, or the money received for any of the same upon his said contract:—
Provided, That the Commissioners herein named, shall not enter into any contract for the erection of said buildings, unless the proceeds of the lands and lot hereby directed to be sold shall amount to the sum required to complete the said buildings. Provided.

XIV. § 10. The said Commissioners shall make a full and complete return of their proceedings herein, to the next General Assembly, and as often thereafter as they shall be required by the Legislature to do so; and on the completion of the buildings above directed, and the necessary inclosures, they shall pay over and into the Public Treasury of the State, the balance of the money remaining in their hands unapplied, should any be left. Report of proceedings to be made to next Assembly.

Clerks of the county and superior courts, Comptroller, Consul, Council of State, Deeds, Entries, Escape, Impeachments, Judges, Members of Assembly, Notaries, Oyer and Terminer, Private Secretary, Sailors, Salaries, Seals, Secretary, Sheriffs, Slaves, Taxes.

GRANTS.

1790. C. 15.

I. § 1. Whenever there has been or hereafter may be an error by the surveyor in platting or making out the

Errors in grant corrected.

certificate to the secretary's office, or the secretary shall mistake, in making out the courses agreeable to the returns, or shall misname the claimant or otherwise, so that such claimant shall be injured thereby, the claimant so injured shall prefer a petition to the county court of pleas and quarter sessions where such land is situated, setting forth the injury he, she or they might sustain in consequence of such error or mistake, with all and singular the matters and things relative thereto; and the said court is hereby authorised to hear testimony respecting the truth of the allegations set forth in the said petition, and if it shall appear to them by said testimony, or from the returns of the surveyor, or error of the secretary, that the patentee of such lands is liable to be injured thereby, such court is hereby required to direct their clerk to certify such facts as appear to their satisfaction to the secretary of state, who shall file the same in his office, and correct such error in the patent, likewise on the records in his office, for which service he shall receive 4s. for each and every patent so altered as aforesaid, except where the error was committed by the secretary.

Errors in registration corrected.

II. § 2. Any person who discovers there is an error in the registration of his, her or their grants or mesne conveyances, shall be at liberty to prefer a petition to the county court in the same manner as in this act before directed; and on hearing the same, if it appears to the satisfaction of the court that error has been made, they are hereby directed and required to order the register of the county to correct such error so made, and make the records by them kept conformable to the grant, mesne conveyance, bill of sale, or other instrument of writing, in which it appears such mistake has been so made. A majority of the acting justices of the said courts, or some of them, not connected with the contending parties by affinity or consanguinity, shall be present on the hearing of such petition, and such petitioner shall prove to the court that he has notified every person having lands adjoining those mentioned in the petition thirty days previous to preferring the same; and that he has notified every person who claims title to the lands described in his said petition; Provided also, that any person who may be dissatisfied with the judgment of any county court, on his, her or their petition, shall be at liberty to appeal to the superior court of the district, as in other cases, and no petition shall be set for hearing the first term.

Grants given before 29th November
1826 & 29 dec^r? 1826, validation
1826. C. 14 -

Copies of Grants to be registered
& when registered made evidence
1822. C. 13.

When any person shall cause the issuing
of a grant to another to be suspended, the
sec^y shall not give the same to any
person, till the determination of the
Court - 1822. C. 14.

Grants of land in one c^y extending to land
in another confirmed made valid
1824 C. 17 -

112

III. § 3. Where any person petitions for the alteration of a deed, mesne conveyance or bill of sale, the same notice shall be given to the grantor of such deed or mesne conveyance. Notice to grantor.

IV. § 5: The county courts when they think it necessary shall order the surveyor and five freeholders, who are not interested, to examine and survey any disputed lands, to ascertain the lines, and to make return thereof to the said court on oath: Provided, that the expence of such examination and survey shall be paid by the party petitioning as aforesaid. C'ty court to order survey of disputed lands.

1798. C. 22.

V. § 2. The several county courts in this state, on the representation of the original grantees, or their legal representatives or assigns, may take full and complete cognizance of all such titles, deeds, or other conveyances for lands lying within their respective counties, made and executed by the late lords proprietors of North Carolina, or their proper agents, or by Henry E. McCulloch, Arthur Hobbs, Murry and Company, or their agents, when error may have happened; and if it appeareth to them that error hath been committed, either by the surveyor in platting said lands, or by the grantor in executing said titles they shall be empowered, through their chairman, to correct said error or mistake; which said amendment, when made by the chairman, shall be considered good and valid, and attested and countersigned by the clerk of the court, and a full and complete copy thereof entered on the records and ordered to be registered; Provided always, that the requisites incumbent on the petitioner, as set forth in the before recited act previous to the hearing of his petition, shall be strictly attended to as to all petitions originating under or by the authority of this act, except as to the number of justices necessary to hear the same. Errors in patents from the Lords Proprietors, &c. corrected.

VI. § 3. In all determinations hereafter made on such petitions where any person or persons may have made or shall make him or themselves a party or parties to prevent the prayer of the petitioner or petitioners being granted, the party failing or cast shall be adjudged to pay all legal costs and charges, which are hereby declared to be the same as in all other civil suits originating in said county courts, where the boundaries of land do not come in question. If petition contested, the party cast to pay costs.

1804. C. 13.

VII. § 1. The benefits granted by the act of 1798, c. 22, to the patentees of land, shall be extended in all cases Benefits granted by said act to

be extend- to every person claiming by, from or under their grant
ed in cer- or grants, either by descent, devise or purchase.
tain cases.

Rectified
errors to be
recorded
in the re-
gister's
books.

VIII. § 2. When any error is ordered to be rectified, and the same has been carried through from the grant in- to the mesne conveyances, the court making such order, shall direct that a copy thereof be recorded in the regis- ter's books of the county, for which service the register may demand and receive 2s.

1812. C. 19.

The Exe-
cutrix of
W. White,
dec'd. to
have recor-
ded certain
grants.

IX. § 1. Ann White, widow and executrix of the late will and testament of William White, late secretary of state, is hereby authorised to cause to be recorded in the office of secretary of state all such grants as were issued and the fees received upon them by her said husband, which remain to be recorded: and that she be permitted to contract with and employ for the purpose abovesaid some suitable person to be approved of by the present se- cretary of state, and who shall make such entries of record under the direction of the said present secretary of state, without any charge therefor, to the state; Provided, such entries be made before the 1st day of June next; and if the said grants shall not be entered or recorded in the manner and by the time above prescribed, the secretary of state for the time being is hereby authorised and re- quired to cause said grants to be recorded, and to charge the expence incurred therefor to the estate of the said William White.

Evidence.

X. § 2. The grants to be recorded under the provisi- ons of this act shall be on the same footing in all respects as evidence and as furnishing originals from which to ob- tain evidence as other records in the office of the secreta- ry of state.

See Commissions, Entries, Seals, Superior Courts.

GUARDIAN AND WARD.

1672. C. 5.

Father
may dis-
pose of the
custody,
&c. of his
children.

I. § 2. Where any person hath or shall have any child or children under the age of twenty-one years, and not married, it shall and may be lawful to and for the father of such child or children, whether born at the time of his death or in ventre sa mere, or whether such father be within the age of twenty-one years, or of full age, by deed executed in his lifetime, or by his last will and testament in writing, in such manner, and from time to time, as he shall think fit, to dispose of the custody and tuition of

such child or children, for and during such time as he, she or they shall remain under the age of twenty-one years, or for any less time, to any person or persons other than popish recusants; and every such disposition heretofore made or hereafter to be made shall be good and effectual against all and every person and persons claiming the custody and tuition of such child or children as guardian in socage, or otherwise, and the person, or persons to whom such custody and tuition hath been or shall be so disposed or devised, shall and may maintain an action of ravishment of ward, or trespass, against any person or persons who shall wrongfully take away or detain any such child or children, for the recovery of such child or children, and shall and may recover damages for the same in the said action, with costs, for the benefit of such child or children.

Authority of the guardian.

II. § 3. And every person or persons to whom such tuition and custody hath been or shall be so disposed or devised as aforesaid, shall and may take into his or their possession, for the use of such child or children, the profits of all lands, tenements and hereditaments, and also the slaves, goods and chattels, and personal estate of such child or children, and may bring such action or actions, in relation thereunto, as by law a guardian in common socage might do.

To take property into possession.

III. § 4. Nothing herein shall discharge any apprentice from his apprenticeship; and the superior court of the district, or the inferior court of pleas and quarter-sessions of the county wherein such guardian shall reside, respectively, upon complaint to them made of such guardian abusing the trust reposed in him, by misusing the child or children so committed to his tuition as aforesaid, in being about, or intending to marry such child or children, in disparagement, neglecting the care of their education suitable to their estate, or wasting, converting to his own use or otherwise mismanaging such estate, to make and establish, from time to time, such rules and orders for placing such child or children under the care and tuition of any other person or persons, securing the estate, and for the better education and usage of such child or children, as they in their discretion shall judge meet and necessary.

Not to discharge apprentices.

Court's power in cases of abuse.

IV. § 5. The superior courts and inferior courts of pleas and quarter-sessions of this province, within their respective jurisdictions, have and shall have full power and authority, from time to time, to take cognizance of all matters concerning orphans and their estates, and to

Court's power over orphans.

Penalty for neglect. appoint guardians in such cases where to them it shall appear necessary, and shall take good security of all guardians by them to be appointed for the estate of orphans by them committed; and if any court shall commit an orphan's estate to the charge or guardianship of any person or persons, without taking good and sufficient security for the same, the justice or justices appointing such guardian shall be liable for all loss and damage sustained by the orphan for want of such security being taken, to be recovered by action at the common law, in any court of record in which the same is cognizable, at the suit of the party grieved.

Proviso. V. § 6. Where the securities were good at the time of their being taken or accepted, but afterwards became insolvent, in such case the justice or justices shall not be liable.

Guardian Bonds how given. VI. § 7. The bond to be given by any person appointed guardian as aforesaid, shall be made payable to the justice or justices present in court and granting such guardianship, the survivors or survivor of them, their executors or administrators, in trust for the benefit of the child or children committed to the tuition and care of such guardian, which bond such court shall cause to be acknowledged before them and recorded, and that in the name of the justice or justices, to whom the said bond is made payable, the survivors or survivor of them, their executors or administrators; any person or persons injured may and shall, at his, her or their costs and charges, commence and prosecute a suit against such guardian, and his securities, executors or administrators, and shall and may recover all damages which he, she or they have sustained by reason of the breach of the condition thereof.

Suit thereon. VII. § 8. If any verdict or judgment shall pass for such guardian, or his securities, the person at whose instance such suit shall be commenced or prosecuted shall pay costs.

Proviso when judgment for defendant. VIII. § 9. When a guardian shall be appointed to an orphan by a superior or inferior court, such guardian shall at the next court after his appointment, exhibit an account upon oath of all the estate of such orphan which he or she shall have received into his or her hands or possession; and every guardian heretofore or hereafter to be by any such court appointed, shall annually exhibit his account, and state of the profits and disbursements of the estate of such orphan upon oath, and such account so to be exhibited shall be entered by the clerk in particular

Guardians when and how to account.

books to be provided and kept for that purpose only ; and when the said court shall know or be informed that any guardian or guardians by them respectively appointed, do waste or convert the money or estate of any orphan to his or their own use, or do in any manner mismanage the same, is about or intends to marry him or her in disparagement, or neglects to educate or maintain any orphan according to his or her degree and circumstance, or where any such guardian or his securities are likely to become insolvent, such court shall have power from time to time to make and establish such rules and orders for the better ordering, managing and securing such estate, and for the better education of and maintaining such orphans, or to appoint another guardian, as they shall think fit and convenient.

Court's power to correct abuses.

IX. § 10. Every guardian, as soon as conveniently the same may be done, shall by order of the superior or inferior court of pleas and quarter-sessions, cause the sheriff to sell and dispose of all the goods and chattels of his or her ward as are or may be liable to perish, consume or be the worse by using or keeping, (except in the instances hereafter mentioned) for the most that can be got for the same by public sale, having first advertised the same at all the public places within the county, at least twenty days before the day of sale, in reasonable lots, and shall, for enhancing the price thereof, give six months credit, upon good security given ; for which service the sheriff shall be allowed by the court, so as such allowance does not exceed two and a half per cent. and such guardian, after the time of such payment is past, shall take and pursue all lawful ways and means to receive and recover the money, upon pain of being answerable for the same, and if the same cannot be received before the orphan entitled to receive such money, shall have a right to demand it, or such guardian shall be removed from his guardianship ; he or she shall and may assign such bond to such orphan, and such assignment shall discharge such guardian for so much against him, her or them ; and where the profits of any orphan's estate shall be more than sufficient to maintain and educate him or her, the guardian of such orphan shall lend the surplus, and all other sums of money in his hands belonging to such orphan, upon bond, with good and sufficient securities, to be approved of by the next succeeding court, and to be repaid with interest, which interest such guardian shall account for annually ; and where the person or persons to whom such money shall be lent, or

To sell the perishable estate.

See lands.

Where bond to be assigned to orphan.

When lia-
ble for in-
solvency.

their securities, are likely to become insolvent, such guardian shall use all lawful means to enforce the payment thereof, on pain of being liable for the same as aforesaid, and an assignment of such last mentioned bond, in either of the aforementioned cases, shall discharge such guardian for so much as is specified in the condition thereof.

Slaves &c.
to be kept
on the land

X. § 11. Where any orphan shall have lands, and a sufficient number of slaves to cultivate and improve the same, such slaves, unless otherwise ordered by the superior or inferior courts, shall be employed on the lands and plantations of such orphan; and all horses, cattle, sheep or hogs, shall be kept upon such lands and plantations until such orphan comes of age, and he or she shall have the benefit of the increase, and shall sustain the loss if any shall happen.

When
stock to be
sold.

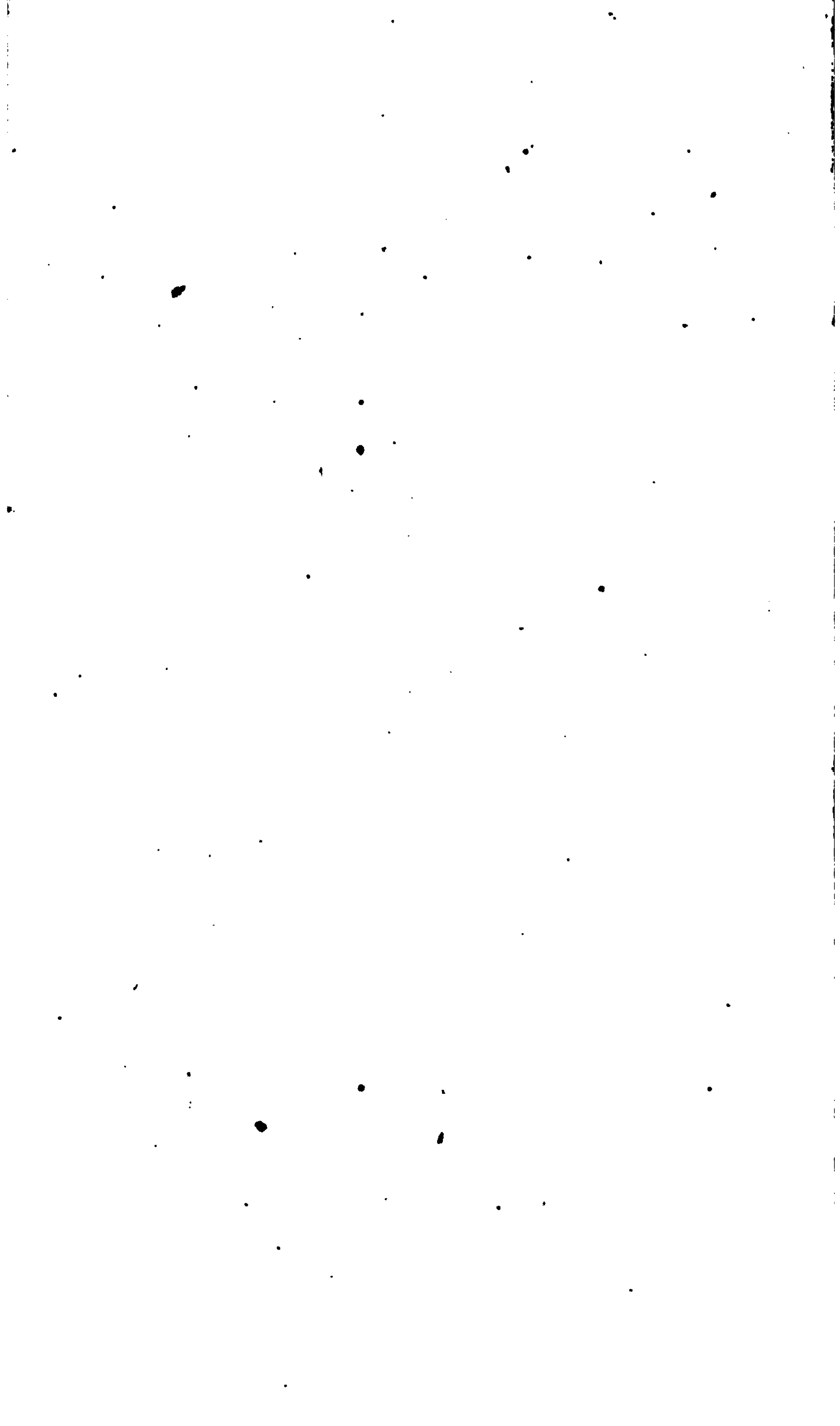
XI. § 12. If any such stock grow too numerous, or if it will be to the advantage of such orphan, his or her guardian shall and may sell, by order of the superior or inferior court, such part of such stock as such court shall think fit; and all plate shall be preserved and delivered to such orphan when at age in kind, according to weight and quantity.

Manner of
letting out
orphan's
land.

XII. § 13. No guardian shall let or farm out any land belonging to any orphan for a longer term than the orphan be of age, or in other manner than by lease in writing; and that special care be had that the tenant shall improve the plantation, and that he or she keep the houses, orchards and fences thereon, or shall be erected on the same, in good and sufficient repair, and leave the same so at the expiration of such lease; and that provision be made in such lease for preventing all kind of waste, and employing any timber to any other use than the immediate use of the plantation.

Orphan's
court once
a year.

XIII. § 15. The justices of every inferior court of pleas and quarter sessions in this province, respectively shall, on the first day of the court that shall be held next after the first day of January in every year, hold an orphan's court for the purpose aforesaid; and every person heretofore appointed, or that shall hereafter be appointed guardian to any orphan by any court, or by deed or will as aforesaid, shall exhibit such account as aforesaid, and the justices of every court shall, at the same court, examine into all accounts of guardians so to be exhibited to them, and shall direct a summons to issue, returnable to their next court, against all guardians who shall then fail to appear and render such account, whether such guardian



be resident in the same or any other county, and shall then also enquire into the abuses and mismanagement of guardians, and whether they or their securities are likely to become insolvent, and thereupon to proceed according to the power in this act before given; and if any such guardian shall wilfully neglect, after being summoned as aforesaid, to appear, or obstinately refuse to exhibit such account, it shall and may be lawful for the court to issue an attachment for such contempt, and to commit such guardian, until he or she shall exhibit such account.

XIV. § 16. Nothing herein before contained shall be construed to restrain the power of the inferior courts of power at pleas and quarter sessions in enquiring, as often as they any time to enquire, shall think proper, into the abuses and mismanagement of guardians; but that it shall be lawful for them to execute such power at any time or times when to them it shall appear necessary.

XV. § 17. The grand jury in every county in this province shall annually, at the orphan's court to be held for Grand jury to present orphans without guardians, to the justices thereof, in writing, the names of all orphan children within their parish that they shall know have not guardians appointed them, and are not bound out to some trade or employment, and all abuses, mismanagements and neglect of such guardians as live within their county.

XVI. § 19. It shall and may be lawful for every guardian to charge in his account all reasonable disbursements Disbursements allowed guardian, and expences; and if upon rendering such account it shall appear to the court that such guardian hath really and bona fide disbursed more in one year than the profits of the orphan's estate do amount unto, for the education and maintenance of such orphan, such guardian shall be allowed and paid for the same out of the profits of such orphan's estate in any other year. Provided always, that such disbursements be, in the opinion of such court, suitable to the degree and circumstances of the estate of such orphan.

XVII. § 21. Where any person who now is, or hereafter shall be security for the estate of any orphan, shall conceive himself in danger by reason thereof, and petition the court where such security was entered into for relief, it shall be lawful for such court, upon petition exhibited to them, forthwith to order summons to issue against the party or parties with and for whom the petitioner stands

bound, returnable to the next court: and thereupon to compel such party or parties to give sufficient other or counter securities, to be approved by the said court, or to deliver up the said estate to the said petitioner, or such other person as the court shall direct, or they may and are hereby empowered to make such other order or rule therein for the relief of the petitioner, and better securing such orphan's estate, as to them shall appear just and equitable.

Proviso. XVIII. § 22. Such court shall take good and sufficient security of the person or persons to whom such estate shall be so committed, in like manner and under the like penalty as is by this act required to be taken of guardians appointed by the court; and every such person shall also exhibit his account, and be subject to the rules and orders of the court, in the same manner, to all intents and purposes, as is herein before required of guardians, or they are made subject unto.

Right of appeal. XIX. § 24. When any person shall conceive himself injured or aggrieved by order or sentence of any inferior court, in appointing a guardian to any orphan, or in removing any orphan from the care and tuition of any person who has been appointed such, or on refusing to make such appointment or removal as aforesaid, he may appeal from such order or sentence to the court of chancery of this province, or to the superior court of the district, at his option; and the party praying such appeal shall file a copy of the proceedings of the inferior court therein with the clerk of the chancery^a or clerk of the superior court (as the case may be) fifteen days before the sitting of such court, and thereupon it shall and may be lawful for the court to which such appeal is made, to proceed to rehear the matter, and either affirm or reverse such order or sentence, and thereupon to award execution for all such costs and charges as shall be occasioned by such appeal.

See equity.

Appeal bond. XX. § 25. The party praying such appeal, before the same shall be granted by the inferior court, shall enter into bond, with sufficient securities, for prosecuting such appeal with effect, and the payment of all such costs and charges as shall be awarded against him in case he shall be cast in his said appeal.

See equity. XXI. § 26. Nothing in this act shall restrain or abridge the power of the said court of chancery^a in any matter or thing relating to orphans or their estates; but the said court shall and may hold, use, exercise and enjoy the same jurisdictions, powers and authorities therein in as full and

The power of the c't. of chancery.

ample manner to all intents and purposes as if this act had never been made. by not a-bridged.

1816. C. 7.

XXII. § 1. From and after the passing of this act, it shall be the duty of the clerk of the court of pleas and quarter sessions in the several counties in this state respectively, to issue, ex officio, summons returnable to next court, against all guardians, whether resident in the same or any other county, who shall fail to appear and exhibit his, her or their account as required by the provisions of the act passed in the year 1762. Clerk shall summon guardians.

XXIII. § 2. If any clerk shall neglect or refuse to perform the duty herein enjoined upon him, he shall forfeit and pay the sum of fifty pounds, to be recovered by action of debt, before any court having jurisdiction thereof, to be applied to the use of the ward of said guardian. Penalty.

XXIV. § 3. The clerk, for issuing the summons herein directed, shall be entitled to demand and receive the sum of sixty cents, to be collected by the sheriff or other officer, at the time of serving said summons, and accounted for to the clerk at the return of the same: Provided, that nothing herein contained shall be construed to subject to payment of costs aforesaid, any guardian who may have before the return of such summons, finally settled with his ward, or will make it appear to the court, that he was prevented by sickness or other unavoidable cause, from exhibiting his account agreeably to the directions of the act of 1762. Fees.

1816. C. 30.

XXV. From and after the passing of this act, all guardians shall be entitled to recover compound interest on all notes, bonds or obligations given or made payable to him, her or them, in the capacity of guardian, in the same manner as if said notes, bonds or obligations had been renewed annually; any law, usage or custom to the contrary notwithstanding.

HEIRS AT LAW.

See Abatement, Descents, Entries, Lands, Practice, Widows.

HEALTH.

1815. C. 10.

I. § 1. All ponds of stagnant water, all cellars and foundations of houses, whose bottoms contain stagnant and putrid water, all dead putrified animals lying about the docks, streets, lanes, alleys, vacant lots or yards, all privies that have no wells sunk under them, all slaughter

houses, all docks whose bottoms are alternately wet and dry, by the ebbing and flowing of the tide, all accumulation of filth in the streets, lanes, alleys and gutters thereof, all accumulations of vegetable and animal substances undergoing a putriferous fermentation in any of the seaport towns of this state, are hereby declared common nuisances, productive of offensive vapours and noxious inhalations, the causes of disease, and ought to be restrained, regulated and removed.

Forfeiture
of five dol-
lars.

II. § 2. Every person possessed of a lot or lots, which from their low or sunken situation are liable to retain tide or rain water, or on which cellars or foundations for buildings may be dug and whether a tenement be erected over the same or not, shall, during the months of June, July, August, September and October, preserve and keep the said lots, cellars and foundations, dry and free from stagnant or putrid waters and other filth; any person offending herein shall forfeit and pay five dollars for the use of the town, to be recovered in the name of the Commissioners thereof for every week he, she or they shall suffer such stagnant or putrid water or other filth to remain thereon: and if the said owner or owners shall, notwithstanding the above provision, neglect to remove such stagnant or putrid water or other filth, the Commissioners of the town may employ such person or persons as they may think proper, and upon such terms as to them may seem reasonable and just, to remove from the said lot or lots, cellar or foundation the said filth, or stagnant or putrid waters, which said expense shall be considered as a further fine for not complying with the provisions of this section, and shall be collected accordingly; and the said expenses shall also be a lien upon the lot or lots upon which the same has been expended.

See Quarantine.

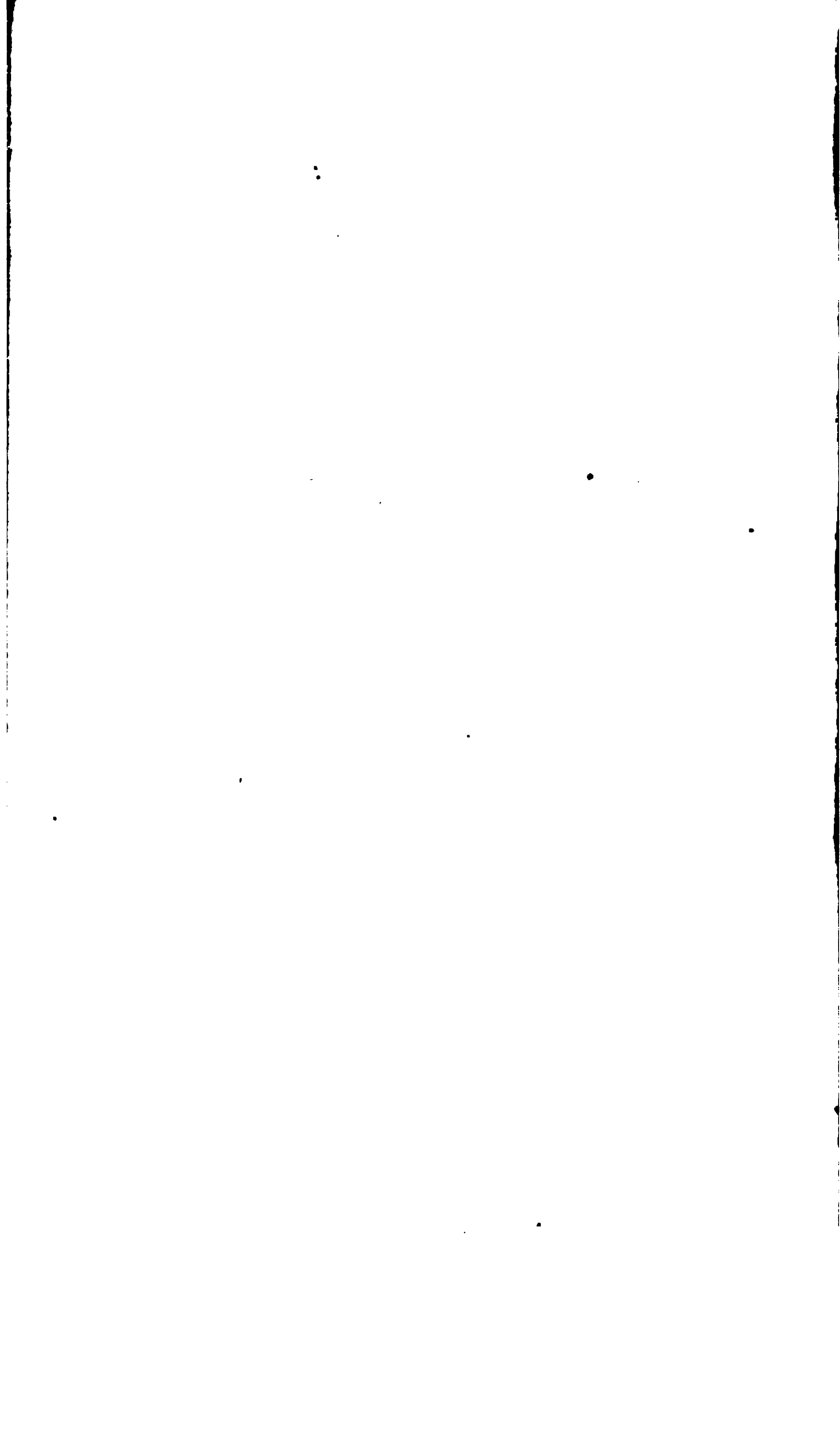
HIDES, SKINS AND FURS.

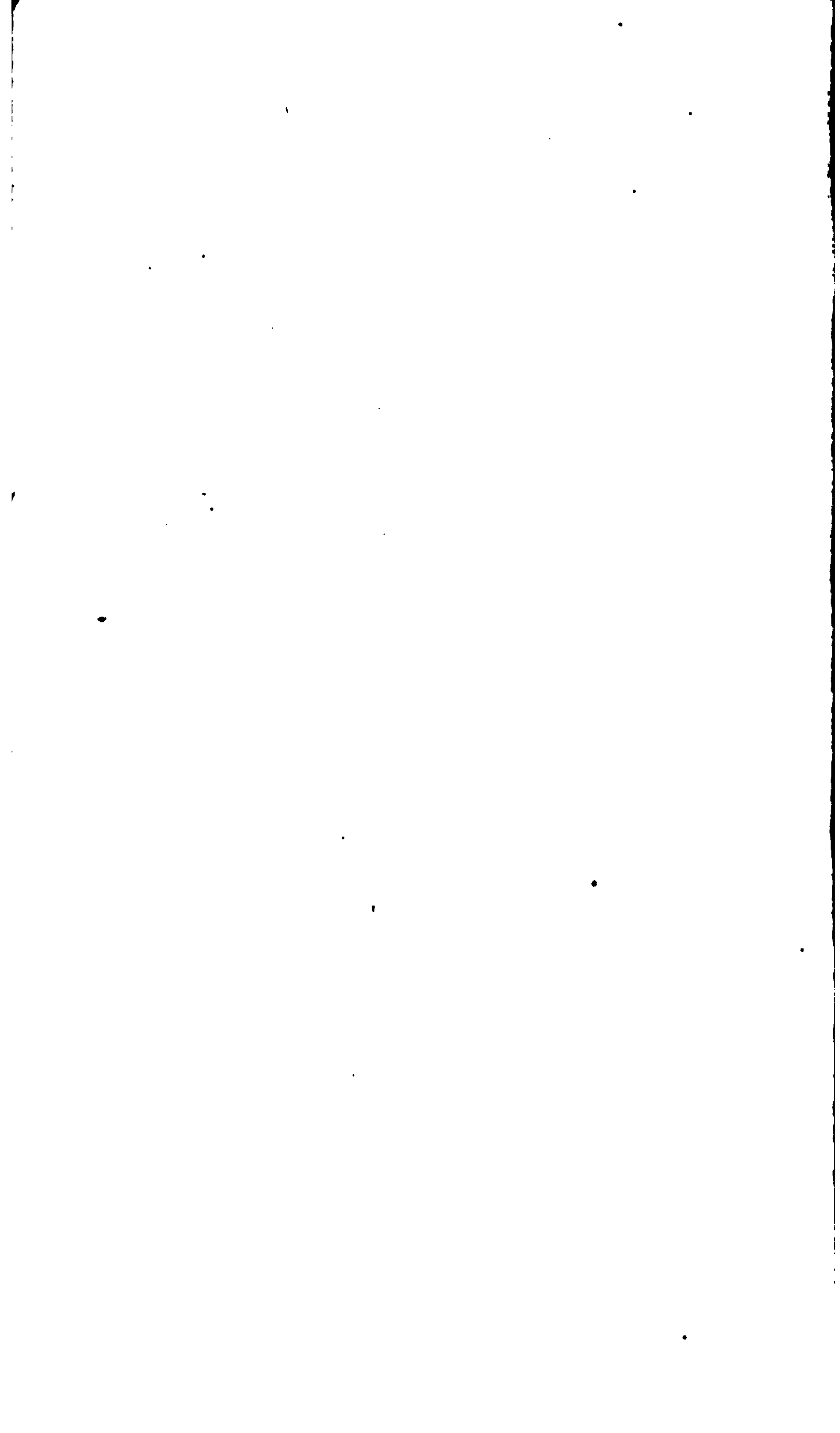
1789. C. 8.

I. § 1. Every master or owner of a vessel at the time of his clearance out before the naval officer, shall take the following oath, viz.

Oath of the
Master.

"I, A. B. master or owner, as the case may be, of the called the do swear there are not on board of my vessel any raw hides, pieces of hides of neat cattle, calf skins, nor any beaver, racoon or fox furs, for the purpose of exporting them out of this state, either as cargo or adventure, of my own, or any other persons whomsoever; and that I will not knowingly or willingly, suffer





any person or persons to export any of the said kind of skins or furs out of this state, in the vessel of which I am commander or owner."

II. § 2. If any captain or owner shall suffer or willingly permit any of the abovementioned articles to be brought on board his vessel, it shall be deemed evidence of his intention of exporting the same, and shall forfeit 500l. to be recovered by action of debt in any court having jurisdiction, one half to the person suing, and the other half to the state; and if the judge or judges before whom the same shall be tried, shall certify there was a reasonable cause of action, the plaintiff or complainant shall not be subject to cost.

III. § 3. If any person shall by land convey any such hides, skins or furs out of this state, into any other state, for the purpose of selling the same, such person on conviction shall suffer the same pains and penalties as are before prescribed for exporting such hides, skins or furs by water, to be recovered in like manner, and applied to the same uses.

HURLINGS.

See Sales and Auctions.

HOGS.

See Cattle, Horses and Hogs.

HONOURS.

See Privileges.

HORSE-RACING.

1800 C. 21.

I. § 1. From and after the passing of this act, no money shall be recovered at law by means of any bet or wager on a horse-race, except a written obligation is produced on the trial, containing the sum so betted or laid on such horse-race, signed, sealed, and attested, by at least one witness. No bet to be recovered except a written obligation is produced.

II. § 2. All horse-racing contracts shall be reduced to writing; and signed by the parties thereto at the time they are made, otherwise they shall be void; and all sub-contracts or bye bets, on the same shall also be reduced to writing and signed by the parties of such bye bets, or the same shall be void; and on all trials at law, where it may be necessary to give such contracts in evidence, no parole testimony shall be admitted to alter or explain such con- All bets to be reduced to writing.

Not to ex-tracts : Provided nevertheless, that nothing herein con-
tend to tained, shall be construed to extend to course-racing.
course-ra-
cing.

1810. C. 14.

Bonds, &c.
given on a
horse-race
to be void.

III. § 1. From and after the first day of January next, every promise, agreement, note, bill, bond or other contract, to pay, deliver or secure money or other thing, won or obtained by wagering or betting on a horse-race, or to repay or secure money or other thing, lent or advanced for that purpose at the time of such betting or adventuring, shall be void; and any conveyance or lease of lands, tenements or hereditaments, sold, demised or mortgaged; and every sale, mortgage or other transfer of slaves or other personal estate, to any person, or for his use, to satisfy or secure money so won, lent or advanced, on due proof made before any jurisdiction having cognizance thereof, shall be, and is hereby declared void.

Former
acts re-
pealed.

IV. § 2. All acts and clauses of acts coming within the meaning and purview of this act, are hereby repealed and made void.

HORSE-STEALING.

1790. C. 12.

§ 1. From and after the first day of January next, if any person or persons within the limits of this state, shall feloniously steal any horse, mare or gelding, upon due conviction thereof, such felon or felons shall suffer death without benefit of clergy.

1817. C. 2.

Clergiable
felony, 1st
offence.

II. § 1. The crime of Horse-Stealing shall in future, in the first instance be considered as a clerigiable felony.

Death for
the 2d.

III. § 2. If any person shall be found guilty of feloniously stealing any horse, mare, gelding, jack-ass, or mule within the limits of this state, for the second offence such person shall suffer death without benefit of clergy; any law to the contrary notwithstanding.

HOSPITAL-MONEY.

See Seamen.

HOUSE-BREAKERS.

1806. C. 6.

§ 1. If any person or persons shall break any dwelling-house, shop, warehouse or other out-house thereto belonging, or therewith used, in the day time, and feloniously take away any money, goods or chattels, of the

value of 20*l.* or upwards, therein being, although no person shall be within such dwelling-house, shop, warehouse or other out-house, or shall comfort, aid, abet, assist, counsel, hire or command any person or persons to commit such offence, and being thereof lawfully convicted, or being indicted shall stand mute, or peremptorily challenge more than thirty-five jurors, shall suffer death without benefit of clergy. Cases in which persons breaking houses, &c. shall be deprived of benefit of clergy.

HUNTING. I

1768. C. 13.

I. § 2. From and after the first day of January next, ~~no~~ Who shall not hunt. person whatever (masters of slaves excepted) not having a freehold of one hundred acres of land within this province, or tending 10,000 corn hills, at least five feet distance each, shall hunt or kill deer, under the penalty of 10*l.* proclamation money for every offence; and moreover shall forfeit his gun, or the value thereof: to be recovered by action of debt, bill, plaint or information; by any person who will prosecute for the same, wherein, upon conviction, over and above the said penalty and forfeiture as aforesaid, the defendant shall be committed to goal by order of the court, there to remain, without bail or mainprize, for one month. 2, 8, 9.

II. § 5. Nothing herein shall bar or hinder an overseer of a slave or slaves from hunting and killing deer with a gun, on his employer's lands, or the waste lands of the public, within five miles of the residence of such overseer.

1774. C. 6.

III. § 5. When more persons than one are engaged in the commission of the offence of hunting ~~with~~ a gun, in the night by fire light, it shall and may be lawful for one of them to give evidence against any one, or all others concerned; and his testimony shall be held and deemed to be as effectual, and shall have equal weight as if given by any person perfectly disinterested and innocent of the offence giving like information of the same facts, subject in other respects to the general rules of law respecting witnesses: and such witness, upon giving such information, and after due conviction of one or more such offenders, shall be acquitted and held discharged from all penalties and pains to be inflicted by this act, and shall have equal right to the moiety of the ~~fine~~ heretofore mentioned as other informers have. a participator in the crime may give evidence against the others, viz. fire-hunters, 4, 5.

1779. C. 3.

Penalty on
witnesses
against fire
hunters
refusing to
give evi-
dence.

IV. § 9. If any person summoned as an evidence against any fire-hunter, shall refuse or neglect to give evidence against such fire-hunter, such person so refusing or neglecting, shall be committed to the gaol of the county where the offence shall be committed, until he or she shall give evidence against the offender.

1784. C. 33.

Hunting by
fire light,
the penal-
ty, 3, 4, 6.

V. § 1. If any person or persons shall be discovered hunting in the woods with a gun, in the night time, by fire light, such person or persons so offending shall, upon conviction, by indictment or presentment in any court of record in this state, be fined by such court 20l. current money, to be applied to the use of the county wherein the offence was committed; and shall stand committed until all costs accruing upon the presentment be paid.

Leaving
carcasses
in the
woods.

VI. § 2. If any person shall be convicted as aforesaid of killing any deer, and leaving the carcasses thereof in the woods, he shall for every offence forfeit and pay 20s.

Slaves
hunting by
fire light.

VII. § 3. If any slave or slaves shall be discovered hunting, in manner herein before mentioned, the master of such slave or slaves, or the person in whose service he or they may be, shall, upon due conviction of such slave or slaves before any justice of the peace of the county wherein such offence may be committed, forfeit the sum of five pounds, to be levied by a warrant immediately to be issued by such justice for that purpose; and if any person shall be duly convicted as aforesaid of sending his slave to hunt with a gun, in the night by fire light, he shall be subject to the same pains as are provided by this act to be inflicted on fire-hunters.

Killing
deer be-
tween the
10th Feb.
and 15th
August.

VIII. § 4. It shall not be lawful for any person on the east side of the Apalachian mountains, to kill or destroy any deer running wild in the woods or unfenced grounds in this state, by gun or otherwise, between the 20th day of February and the 15th day of August then next succeeding in each year, unless on his own lands; and if any person on the east side of the said mountains shall kill or otherwise destroy any deer within the time before described, and contrary to the meaning and intent of this act, every such person shall forfeit and pay for each and every deer so unlawfully killed or destroyed, the sum of 40s. to be recovered before any justice of the peace, and applied as is by this act directed; and in case any servant or slave shall, on the east side of the said mountains, kill or destroy any deer, between the 20th of February and the 15th

of August in any year, the owner of such slave shall be liable to pay the sum of 40s. for each deer so unlawfully killed or destroyed, to be recovered and applied as before directed.

IX. § 5. It shall not be lawful for any person or persons on the east side of the Appalachian mountains, to hunt with a gun or with dogs on the lands of any other person, without leave obtained from the owner of the said land, under the penalty of forfeiting five pounds for every offence, to be recovered by the owner before any justice of the peace of the county where such offence is committed, or the offender resides, and applied, one half to his own use and the other half to the use of the county; Provided that no such recovery shall be had for the offence afore-mentioned, unless the owner of the land shall, by advertisement posted up in two or more public places, have forbidden the persons so hunting by name, or all persons generally to hunt on his land, previous to the offence: Provided also, that recovery shall not be had in any case whatever, unless the prosecution is commenced within one month after the offence is committed.

X. § 7. All fines imposed and recovered by virtue of this act, shall be one half to the use of the informer, the other half to the use of the poor of the county wherein the offence shall be committed, except such as are otherwise directed.

1801. C 31.

XI. § 1. Upon any conviction hereafter for said offence of fire-hunting, the court in which the same is made, on his failing to pay the fine prescribed by 1784, c. 33, shall be, and is hereby authorised and empowered to sentence the person or persons convicted, to such term of imprisonment as may be judged adequate to the punishment of the offence, not exceeding two months.

JAILORS.

See Claims, Escapes, Fees.

IDEOTS AND LUNATICS.

1784. C. 14.

I. § 3. It shall and may be lawful for every county court in this state, wherever any ideots or lunatics shall be within the jurisdiction thereof, to appoint him or her a guardian, taking bond for the faithful administration of the trust reposed in them, in the same manner as bonds

are taken from the guardians of orphans; and such guardians, when so appointed, shall continue during the pleasure of the court, and shall have the same powers, to all intents, constructions and purposes, and shall be subject to the same rules, orders and restrictions as guardians of orphans appointed by the court; such ideocy or lunacy to be ascertained by the inquisition of a jury by virtue of a writ to be issued by such court to the sheriff of the county for that purpose.

1801. C. 25.

II. § 1. Whenever it shall be made appear to any of the county courts within this state, (seven justices at least being present) either by the wardens of the county, or guardians of such lunatic or ideot, that the personal estate of any lunatic or ideot in such county has been exhausted, or is insufficient for his or her support, and that such ideot or lunatic is likely to become chargeable on the parish, then and in either of such cases, the said county courts are, and are hereby empowered, to make an order for the sale, or for the renting of the real estate of such ideot or lunatic, or any part thereof, in such manner and upon such terms, as they may deem advisable.— And all sales made in pursuance of this act, shall be valid to all intents and purposes to convey the whole interest and estate directed to be sold by the county courts as aforesaid.

1817. C. 17.

III. § 1. Whenever it shall be made appear to the satisfaction of the superior court of law of any county in this state, upon the petition of the guardian of any ideot or lunatic, that a sale of any part of the personal or real estate of such ideot or lunatic is necessary for his or her maintenance, or for the discharge of debts unavoidably incurred for his or her maintenance; said court shall be, and it is hereby empowered to make an order for the sale of such part of the personal or real estate of said ideot or lunatic, and upon such terms as said court shall think proper: Provided, that no order shall be made for the sale of real estate until said court is satisfied that the whole personal property has been exhausted: And provided that said court may, if it think proper, order said petition to be filed and their order of sale to be deferred until the next of kin or presumptive heir at law of said ideot or lunatic have been summoned to shew cause against said petition, if any they have, either by summons

Cases in which estates are to be sold.

Petition to the superior court.

Proviso.

personally served upon them, or by advertisement, as in other cases of petitions, notices and advertisements are ordered to be made.

IEOFAILS.

1768. C. 1.

I. § 45. All the statutes of Ieofails and amendments, which now are in force in England, are hereby declared to extend to and be in force in this colony.

1777. C. 2.

II. § 35. All the statutes of England and Great Britain for the amendment of the law, commonly called Statutes of Ieofails, and which were heretofore enforced in this territory by any act or acts of the General Assembly under the late government, are hereby declared to have continued and to be now in full force in this state, and shall be duly observed by all judges and justices of the several courts of record within the same, according to the true intent and meaning of the said statutes, unless where the same are or may be altered by this or any other act.

1786. C. 14.

III. § 3. No instrument of writing which contains the substance, shall be lost or destroyed for want of form.

Abatement, Amendment, Appeals, Indictments, Justices.

ILLEGITIMATE CHILDREN.

See Intestates.

IMPEACHMENT.

1795. C. 5.

I. § 1. When any article or articles containing criminal or impeachable matter, shall be exhibited to the General Assembly against a public officer, a notice, signed by the speakers of both houses, shall issue to the person accused, requiring him to appear within fifteen days, at the place where the legislature may be in session; and upon his so appearing, it shall be the duty of the clerk of the house wherein the articles of impeachment were first introduced, to furnish him, upon application, an attested copy of the articles exhibited, together with copies of all documents, depositions or papers in the possession of the house, which the person accused may deem necessary to his defence or exculpation; and he shall also be allowed to make, in writing addressed to the General As-

Mode of proceeding by the General Assembly against any public officer impeached.

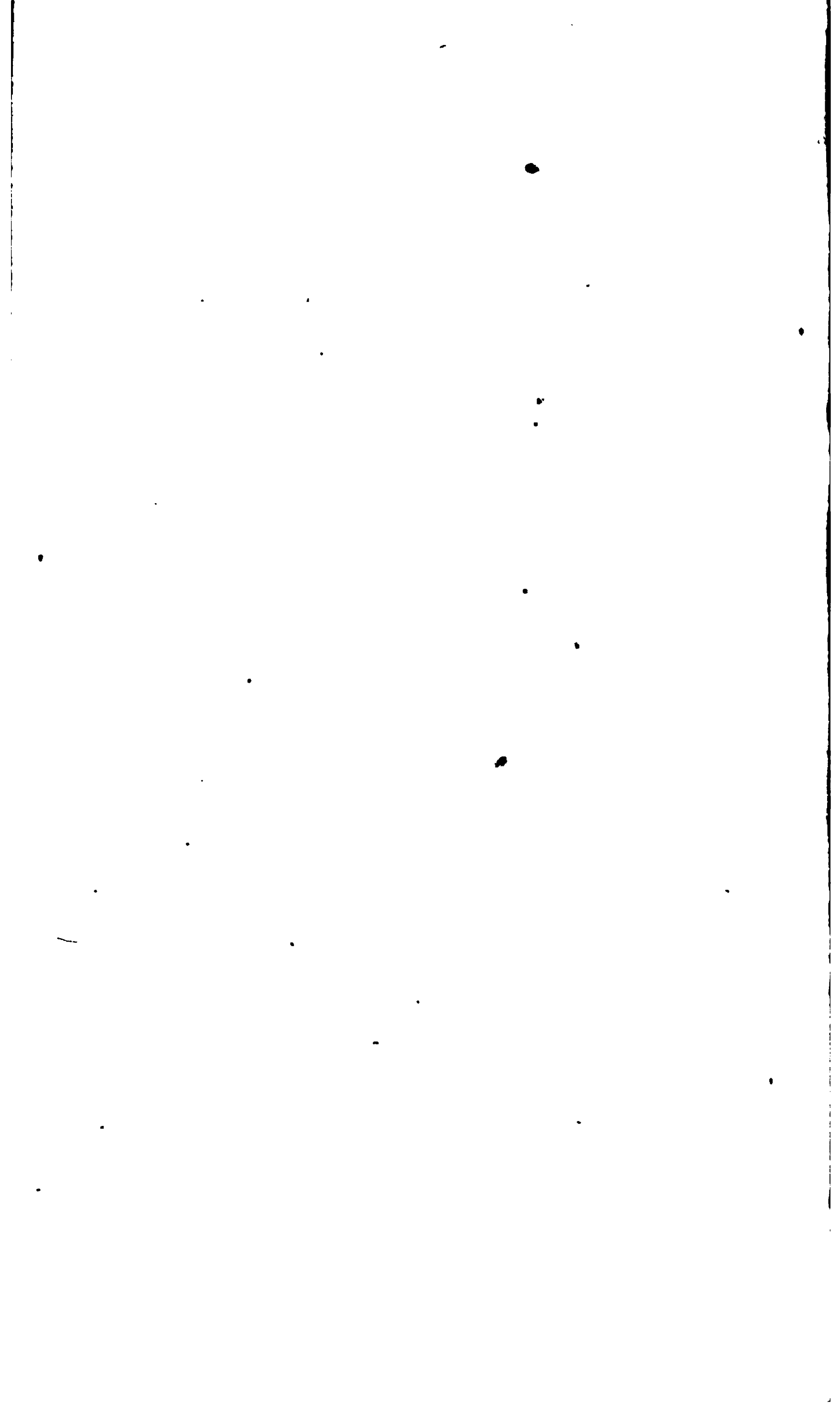
sembly, such answer to the articles exhibited, and such vindication of his official conduct, as he may think pertinent or material; whereupon it shall be lawful to proceed in the consideration of the articles, and if it shall appear to a majority of both houses, that the person charged had been guilty of criminal or impeachable conduct, he shall thenceforth stand suspended from the exercise of his official duties, and shall immediately enter into bond, payable to the person who shall be in the exercise of the executive branch of the government, in such sum, and with such sureties, as the legislature at the time may think proper to prescribe, due regard being had to the nature of the offence, and circumstances of the offender, for the purpose of enforcing his appearance at the court before which he is to be tried, as hereinafter mentioned; or he may be committed to prison until he shall find sufficient bail, or stand committed without bail, as the two houses in their discretion may direct: But in case the person accused shall fail, or refuse to appear upon the notice and within the time aforesaid, before the General Assembly, it shall be lawful to proceed to the consideration of the articles, and if admitted by a majority of each house, the speaker shall without delay issue a warrant to apprehend him;— which warrant shall be in the following form, to wit:

Form of
warrant for
apprehen-
ding any
officer im-
peached,
who fails
to appear
according
to notice.

To the sheriff of the county of and to all and singular the sheriffs, coroners, and other judicial and ministerial officers of this state: Whereas articles of impeachment have been exhibited and admitted in the present General Assembly, against for certain high crimes & misdemeanors against the state; & whereas the said hath failed upon notice given to appear and abide the order of the General Assembly; You the said sheriff of the county of and all and singular the sheriffs, coroners, and other judicial and ministerial officers, of each and every county within this state, are therefore commanded to take the body of the said if to be found within your respective counties, and bring him before the court of for the district of on the day of to be dealt with according to law; and for your or either of your so doing, this shall be a sufficient warrant. Given under our hands and seals, &c.

Court of
Impeach-
ment, by
whom held
where, and
at what
time ex-
ceptions.

II. § 2. The court for the trial of impeachments, shall be held by the judges of the superior courts of law for the time being, at the court-house of the district wherein the offence is charged to have been committed, at the terms fixed by law for the sessions of such courts, except when any of the judges of the courts of law or equity, the attorney general or solicitor general; may be the person impeached, in which case the legislature shall elect by joint ballot of both houses, at least three persons, properly qualified, who shall be stiled Judges of the Court of Impeach-



ments, to be commissioned by the governor for that special occasion, and whose power and duty shall continue until final judgment of conviction or acquittal of the person or persons impeached, according to the verdict of the jury of good and lawful men as in other criminal prosecutions, shall have been pronounced or carried into effect, and no longer.

III. § 3. Whenever an impeachment is admitted, it shall be the duty of the speakers of the two houses to transmit copies of the articles admitted, together with every paper or document which may be deemed by the two houses, or the person impeached, material in the case, to the clerk of the court of the district wherein the cause is directed to be tried; who shall receive and preserve the same as records in his office; and if the offender be not apprehended, it shall be the duty of such clerk, to issue the same process, and to use the same means, to enforce his personal appearance before the said court, as would have been legal and requisite, if the prosecution had been founded on the presentment or indictment of a grand jury: And if the person impeached shall have escaped from the state before his arrest, or being arrested, shall break custody, and take refuge in another state, it shall be the duty of the person exercising the duties of governor for the time being, to take and use all lawful and reasonable means, to cause the said offender to be reclaimed, that the intentions of this act, and the purposes of justice, may not be evaded.

Speakers to forward all the papers to the clerk where the impeachment is to be tried, who is to preserve them.
Clerk's duty in enforcing the offender's appearance.
Governor's duty where he escapes from the state, &c.

IV. § 4. It shall and may be lawful, in every case where an impeachment is admitted against any officer whatever, for the General Assembly admitting such impeachment to appoint by joint ballot of both houses, such number of managers on the part of the state, to assist the attorney general and solicitor general, as may appear to be necessary; and the said managers shall not only be entitled to adequate compensation for their own services, but when the attorney general or solicitor general may be the person impeached, they shall be and are hereby authorised to employ counsel for and at the expense of the state.

Managers to be appointed to assist the attorney & solicitor general.
Compensation, &c.

V. § 5. When a judge of any of the courts of law or equity, or the attorney general or solicitor general, shall be impeached, and the General Assembly shall appoint judges of the court of impeachment as aforesaid, it shall be lawful for them, and they are hereby authorised to require the clerk of the superior court of law for the dis-

When a judge or the attorney or solicitor general is impeached, the clerk

of the superior court shall attend the court of impeachment.

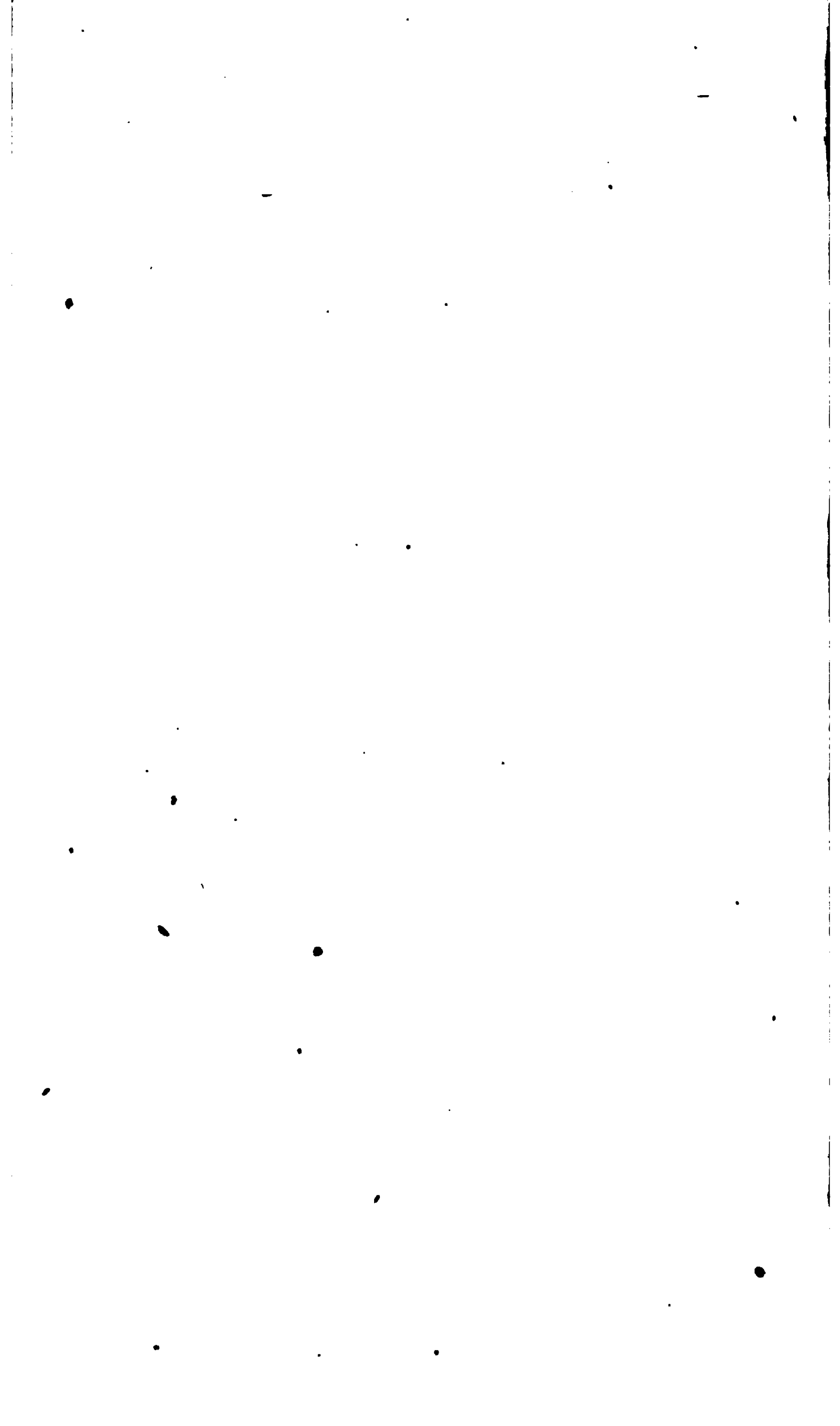
His fees, &c.

Fees to the judges of the court of impeachment

Their power in requiring the attendance of sheriff, &c. of the county in issuing process to the justices to obtain jurors &c.

strict in which the offender is to be tried, to attend at the time and place which shall have been prescribed by the General Assembly for the trial of such impeachment; And it shall be the duty of the said clerk to attend from day to day, and act as clerk of the court of impeachment; for which he shall be entitled to the same fees that are lawful in other criminal prosecutions, to be taxed by the court and levied by execution in the usual manner, upon the property of the person impeached; and also such further sum for extra services, to be paid by the public, as the court may think reasonable. And the judges of the court of impeachment respectively, shall be entitled to receive, in full compensation for all services rendered by them, the sum of 5l. per day, during the time they may be obliged to remain at the place appointed for trial, together with the sum of 25s. for every 30 miles travelling to and from the said place; which sums shall be paid by the treasurer, upon the warrant of the governor, as in other cases.

VI. § 6. It shall and may be lawful for the judges of the court of impeachment, and they are hereby authorised to require the attendance of the sheriff of the county wherein the court may be holden, and such number of constables as may appear to them to be necessary during the course of the trial; and previous to the meeting of the said court, the judges are also hereby authorised and required to issue writs, or cause them to be issued by the clerk, to the sheriffs of the several counties composing the district in which the offender is to be tried, directing them to convene a majority of the acting justices of the peace of their respective counties, on a day or days to be appointed by the judges, for the purpose of making out lists of jurors, whose qualifications and characters shall be above all exceptions, and whose numbers shall be the same that are usually returned to the superior court of law from each of the counties respectively. And upon the said justices making out and delivering to the sheriff within each county a list of jurors as aforesaid, it shall be the duty of the several sheriffs forthwith to summon them to appear at the time and place appointed for the trial of the impeachment; for which service they shall obtain certificates from the clerk, to be paid in the same manner that other jurors are paid for attendance; they shall take the same oaths that are usually administered in criminal prosecutions, and for non-attendance, negligence or misbehaviour, be subject to the same penalties and forfeitures.



VII. § 7. All process respecting any impeachment shall be returnable to the court in which such impeachment is to be tried; and when offences are charged to have been committed in more districts than one, it shall be lawful for the General Assembly to direct in which of the said districts the trial shall be had; and all necessary process previous or subsequent to the trial, shall issue and be returned accordingly. And it shall be the duty of the clerk of the superior court of law, wherein any trial of impeachment is directed or had, to preserve the proceedings of the court of impeachment in his office, as records which may be resorted to as such, and shall for ever after be entitled to all the credit and authenticity, which are by law usually given to the attested proceedings of any other court of original jurisdiction in this state. Process in case of impeachment where returnable, &c. Clerk's duty thereupon.

VIII. § 8. From the time of the admission of the impeachment by the General Assembly, the salary of the person impeached shall be withheld until the final result of the trial be made known to the treasurer; whereupon if he be acquitted, the salary shall be paid without deduction, in the same manner as if no such suspension had taken place: but in case the person impeached be convicted, all arrears of salary shall not only be considered as forfeited, but the offender shall be removed from office, and shall be thereby, and thenceforward, rendered incapable in law to hold or accept any office of profit or trust under the authority of this state, for such number of years as the court trying the impeachment shall think proper to adjudge, and moreover be further liable to suffer such other pains and penalties as the judgment of the court shall inflict. Salary of persons impeached withheld until the final result of the trial, &c.

See Governor.

IMPRISONMENT.

See Indictment, Justices, Runaways.

INDIANS.

CONSTITUTION.

I. § 42. No purchase of lands shall be made of the Indian nations, but on behalf of the public, and by the authority of the General Assembly.

1817. C. 19.

II. § 1. It shall not be lawful for the entry taker of Haywood county to suffer to be made in his office, any entry for land lying within this state to the west of the line run by Meigs and Freeman. Entry taker's duty.

Penalty.

III. § 2. If the said entry taker shall suffer any entry or entries to be made in his office of said land, he shall forfeit and pay for each and every such entry or entries the sum of five hundred pounds, to be recovered by an action of debt before any jurisdiction having cognizance thereof, one half to the use of the person suing for the same, the other half to the use of the county of Haywood.

Repeal of former act

IV. § 3. The third section of the act of 1809, is hereby repealed and made void, and this act shall be in force from and after the ratification thereof.

See Cattle, Horses and Hogs.

INDICTMENTS.

BILL OF RIGHTS.

I. § 7. In all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony; and shall not be compelled to give evidence against himself.

II. § 8. No freeman shall be put to answer any criminal charge, but by indictment, presentment or impeachment.

III. § 9. No freeman shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.

IV. § 10. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

V. § 12. No freeman ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

CONSTITUTION.

VI. § 36. Indictments shall conclude against the peace and dignity of the state.

1777. C. 2.

Challenge.

VII. § 94. Every person accused of any crime or misdemeanor whatsoever, shall be entitled to counsel in all matters which may be necessary for his defence, as well to facts as to law; and every person on trial for his life, may make a peremptory challenge of thirty-five jurors.

1779. C. 4.

Costs p. 11.

VIII. § 19. If the state shall fail, upon the prosecution of any offence of an inferior nature, the court may,

X-ent county from where the assault is
committed

In case of felonious homicide
where the party assaulted died in a different
the offender to be indicted in the
county where the assault was
committed

If the ~~offense~~ party injured die
in another state, the offender
may be indicted in this State

1871. C 22

Persons on the sea coast holding
out false lights liable
to be fined & imprisoned

1871. C 42

Persons guilty of maliciously burning
any public building, to be deemed
guilty of felony. 1870 C 41

At their discretion, order the costs to be paid by the prosecutor, in case such prosecution shall appear to have been frivolous or malicious; and in case the defendant shall not be able to pay costs, or the court shall not think fit to order the prosecutor to pay the same, then and in that case, the clerk of the superior and county courts shall grant a certificate of attendance to such witnesses,* in manner as tickets are directed to be granted to witnesses in civil causes. See Wills, 7.

1784. C. 81.

IX. § 3. In all criminal prosecutions hereafter to be had by indictment or presentment in the county courts, it shall be sufficient to all intents and purposes that the bill shall contain the charge against the criminal expressed in a plain, simple, intelligible and explicit manner, and that no bill of indictment or presentment shall be quashed, or judgment arrested for or by reason of any informalities or refinements, where there appears to the county court sufficient in the face of the indictment to induce them to proceed to judgment. County court in indictments good, if sufficient in the fact &c.

1787. C. 11.

X. § 1. All and every person who shall be found guilty of any charge exhibited against him or them, by indictment or presentment, and shall be unwilling or unable to pay the office fees* that are or may be consequent thereon, shall be hired out by the sheriff of the county where such person is or may be convicted, for such time as any person will take him or them to serve for the said fees and charges, the said sheriff first advertising the time and place of hiring at least ten days previous thereto. Convicted may be hired for fees. See claims, p. 3 Debtors.

1797. C. 2.

XI. § 1: When an indictment shall be found by any of the grand juries within this state, and a nolle prosequi afterwards entered, it shall and may be lawful, on application, for the court in which such indictment was preferred, to say and determine whether such prosecution was promoted on frivolous or malicious pretences and grounds, and if so, to decree that the prosecutor should be subject to pay and discharge the costs thereof. Costs.

1811. C. 6.

XII. § 1. From and after the first day of March next, in all criminal prosecutions, which may be had by indictment or presentment, in any of the superior courts of law, it shall be sufficient to all intents and purposes, that the bill shall contain the charge against the criminal, expressed in plain, simple, intelligible and explicit manner, and that no bill of indictment or presentment shall be quashed, or judgment arrested for or by reason of any informalities or refinements, where there appears to the superior court sufficient in the face of the indictment to induce them to proceed to judgment. Bill of indictment in the superior courts not to be quashed.

for informalities,
&c.

in a plain, intelligible and explicit manner; and that no bill of indictment or presentment shall be quashed, or judgment arrested, for or by reason of any informalities or refinements, when there appears to the court sufficient in the face of the indictment to induce them to proceed to judgment.

1816. C. 20.

XII. § 1. When any person shall hereafter claim his or her benefit of clergy, upon conviction of any felony, and the same shall be allowed, it shall be in the power of the court before which such conviction was had, instead of the burning of the hand of such convict, to order and adjudge him or her to receive one or more public whippings or to pay a moderate pecuniary fine in the discretion of the court, under all the circumstances of the case, and the entry of such judgment shall have the same legal effects and consequences to all intents and purposes as if the person so convicted had been burned in the hand, in presence of the court as heretofore practised.

Accessories, Commissions, County Courts, Duelling, Fences, Frauds, Gaming, Hunting, Ordinaries, Overseers of Roads, Perjury, Presentment, Sheriffs, Slaves, Weights and Measures,

INJUNCTIONS.

1792 C. 2.

Against
the state
when not
to be granted.

I. § 1. In future, no injunction, bill or other process in equity, requiring a stay of any execution obtained against a citizen or citizens, on the part of the state, shall be granted by the judges thereof, or any of them, until the complainant or complainants shall first produce a receipt from the public treasurer, shewing the actual payment and discharge in full of all such part of the judgment obtained as aforesaid, as he or they by their bill of complaint shall not on oath be ready to declare is unjust.

Suspended
proceedings
to be had at
Hillsboro.

II § 2. All injunctions and other process which may hereafter be obtained as aforesaid, in consequence of judgments to be had by the state, shall be returnable and returned to the court of equity for the district of Hillsborough, and the hearing and decree in such cases shall be had in that court only.

1800 C. 9.

Oath and
bond be-
fore in-
junction
issues.

III. § 1. No injunction, commanding the stay of an execution obtained in any court of this state, except on judgments in actions of detinue, shall be granted by the judges, or any of them, for any other or greater sum than what the complainant or complainants shall on oath de-

Infants

Courts of Equity may direct the
sale of infants real estate or personal
estate if it be for the interest of the
infant — 1827. C. 33.

x Su 21 E.C.L.R. Dr on Reynolds
[1925]

clare to be just, and not until said complainant or complainants shall enter into bond with sufficient securities, before the master of the court of equity whence the injunction issues, for the payment into court of the sum complained of, and all costs upon the dissolution of the injunction.

IV. § 2. No injunction to stay an execution shall issue but within four months after the judgment at law is obtained, unless it shall appear from the oath of the complainant or complainants to the judge before whom application is made for an injunction, that said application has been delayed in consequence of the fraud or false promises of the plaintiff at law, practised or made at the time of or after obtaining judgment, or unless it shall appear on oath that the said complainant or complainants was or were out of the state at the time of entering up judgment, so that application could not be made within the time aforesaid.

No injunction to issue but within 4 months.

1810. C. 12.

V. § 1. From and after the passing of this act, in all cases where bonds are given on the obtaining of an injunction, and said injunction should be dissolved, the said bond shall be proceeded upon in the same manner, and under the same rules and restrictions that bonds are proceeded upon in cases of appeals from the county to the superior courts; any law, usage or custom to the contrary notwithstanding.

How injunction bonds are to be proceeded on.

INQUIRY.

See Practice, Judgment by Default, Pleadings, Process.

INSOLVENT DEBTORS.

1773. C. 4.

I. § 1. If any person or persons now are or hereafter shall be taken or charged by any process or execution for any debt, and shall have remained in close prison by the space of twenty days, it shall and may be lawful for two justices of the peace, or any two of the judges of the inferior, or any one of the judges of the superior courts of this province, either in or out of court, upon petition or petitions of such prisoner, under his or their hands and seals, whereof notice shall be given to the person or persons; his or their executors, administrators, attornies or agents, at whose suit such prisoner or prisoners shall be imprisoned, to require the sheriff, gaoler or keeper of any

How to be released from imprisonment.

INSOLVENT DEBTORS.

prison, within their respective jurisdictions, to bring before such justices of the peace, judges of the inferior court of pleas and quarter sessions, or judge of the superior court issuing such warrant, either in or out of court, the body of any person being in prison as aforesaid, together with a list of the several writs, mesne processes and executions, with which he, she or they is or are charged in the several gaols as aforesaid; which warrant every such sheriff, gaoler or keeper, is hereby commanded to obey, and such prisoner or prisoners coming before the said justices or judges, (the creditor or creditors, if resident in this province, at whose suit he is confined, being first personally summoned according to the directions of this act) if he, she or they have no visible estate, real or personal, and shall make oath before the said justices of the peace, or judges of the inferior court, or judge of the superior court, respectively issuing such warrant, that he hath not the worth of 40s. sterling money, in any wordly substance, either in debts owing to him or otherwise howsoever, and besides his wearing apparel, working tools, and arms for muster; and that he hath not at any time, since his imprisonment or before, directly or indirectly, sold, assigned or otherwise disposed of, or made over in trust for himself or otherwise, any part of his real or personal estate, whereby to have or expect any benefit or profit to himself, or to defraud any of his creditors to whom he is indebted: and if there be no person present that can prove the contrary, then such person, by such court or justices, without form of trial, shall be immediately set at liberty; *but execution may issue against any estate afterwards acquired by such insolvent debtor or debtors taking the benefit of this act.* But in case such person be afterwards discovered to have sworn falsely, he shall be indicted for perjury, and if convicted, shall lose both his ears in the pillory, and be liable to satisfy the debt and damages, and be rendered incapable of taking the benefit of this act.

Proceed-
ings to be
returned
by court.

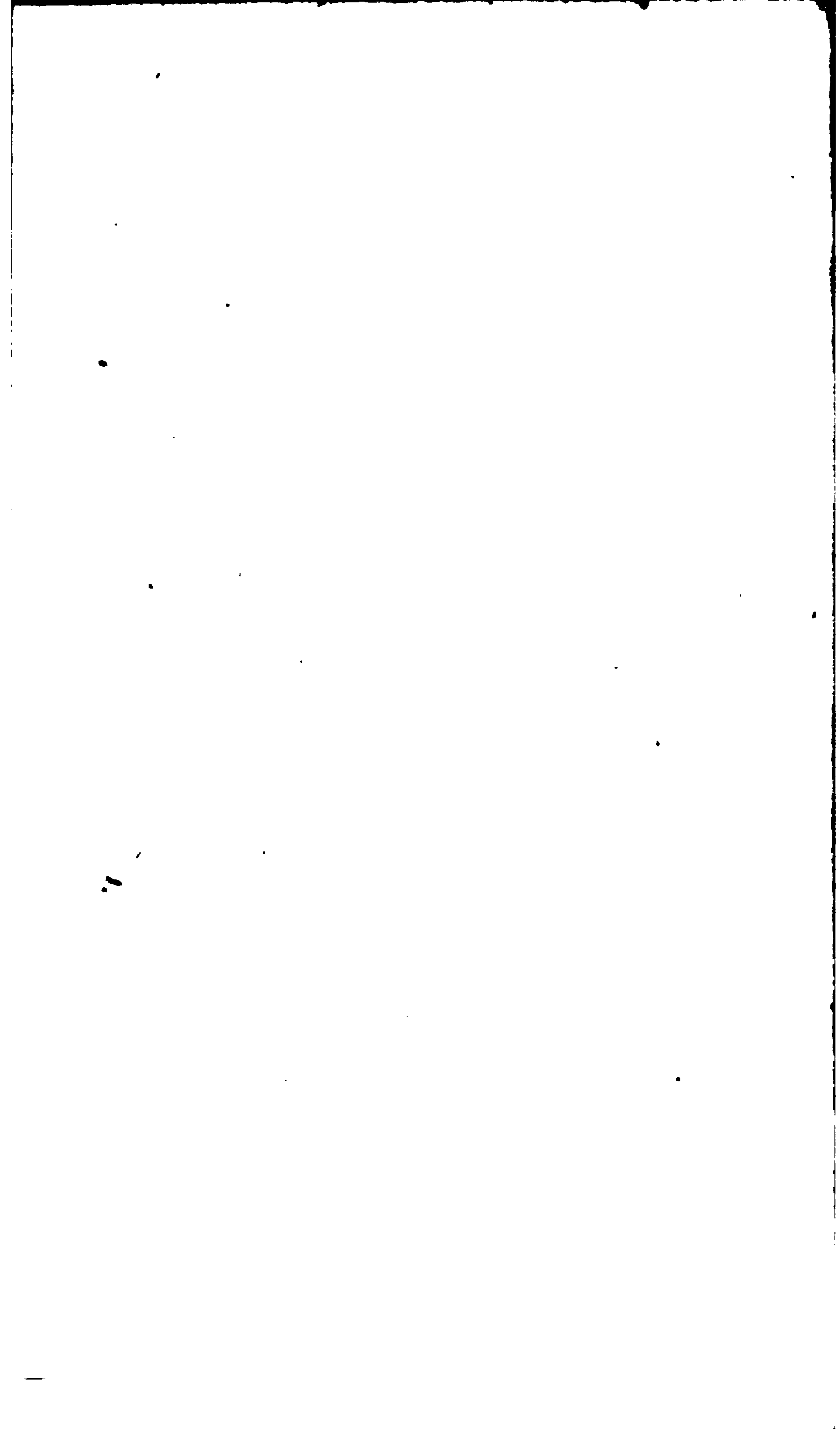
II. 2. The said justices of the peace, judges of the inferior, and judge of the superior court respectively, before whom such prisoner or prisoners shall upon oath have discharged themselves, when the proceedings are before them out of court, shall put the same in writing, under their hands, and return the same into the court from whence the mesne process or execution issued, there to be kept on record, under the penalty of 5l. proclamation money, for each judge or justice, for such omission and

When any person shall make a schedule
all the debts shall rest in the
debtor - he shall receive the sum in
his own name & distribute them among
the creditors - 1827. C. 44.

The manner in which debtors may
be discharged a person whom a party
has formed. paid or concealed
debts not included to the know-
ledge of this act, if creditor were
given bond for jail per
of creditor shall ~~be~~ think that
full disclosure has not been
made - & may to be compelled
1830 C. 26.

Officers having bonds taken from insolvent
debtors in compliance of 1822. to re-
turn the same by the 2nd day of the term to
which they are returnable under penalty of
\$50. to be recovered by surety for the benefit
of the person aggrieved -
1836 C. 9.

~~upon the~~ ~~for~~ ~~from the~~ Either party to the
appeal made at under the act of 1822 may
appeal -
1835. C. 12.



neglect, to be paid to the person injured by order of the said court.

III. § 3. If any person or persons now are, or hereafter shall be taken or charged on mease process or execution for any sum, and shall have remained in prison by the space of twenty days, and shall have any estate, real or personal, and be minded to deliver up his, her or their effects, to his, her or their creditors, it shall be lawful for such prisoner to prefer a petition to the court from whence the process issued, setting forth the cause of imprisonment, and an exact account of his or their estate, and all circumstances relating thereto; which petition, subscribed by him, her or them, and schedule, shall be lodged with the clerk of the said court from which such process issued, twenty days at least before the next succeeding court, and upon such petition so filed, the clerk of the said court shall issue under his hand and seal a copy of the said schedule, and a notice to the creditor or creditors at whose suit such prisoner or prisoners are or shall be confined, setting forth the substance of the said petition, and summoning of them to attend the next succeeding court, to shew cause, if any they have, why the prayer of the said petition should not be granted; which notice being duly served upon the person or persons, his, her or their executors, administrators, attornies or agents, at whose suit such prisoner or prisoners shall be imprisoned, ten days at least before the sitting of the said court, the court shall order the said prisoner or prisoners to be brought before them; and if the said creditor or creditors at whose suit he is imprisoned, shall appear, or being duly summoned shall fail to appear, the court shall proceed to examine the nature of the said petition in a summary way, and shall render to such person an oath to the effect following, (*which see under Oaths, 27.*)

Schedule
of property

IV. § 4. If such prisoner take such oath, and the court be convinced of the truth thereof, the schedule so subscribed being filed with the clerk of the court for the better information of the creditors of such prisoner or prisoners, then and in that case it shall and may be lawful for the court before whom such oath was taken, by warrant to command the sheriff, gaoler or keeper of any prison, forthwith to set at liberty such prisoner; which warrant shall be a sufficient discharge to such sheriff, gaoler or keeper, and shall indemnify him or them against any escape or escapes, or action or actions whatsoever which shall or may be brought, commenced or prosecuted against him or

Prisoner
released.

them by reason thereof; and if any such action shall be commenced against any sheriff or other officer, for performing his duty in pursuance of this act, such sheriff or other officer may plead the general issue, and give this act in evidence.

Estate contained in the schedule to be sold.

V. § 5. All the lands, tenements and hereditaments, which shall be contained in such schedule, for such use, interest, right or title, as such prisoner or prisoners then shall have in the same, which he or she may lawfully depart withal, and also all goods and chattels whatsoever, in such schedule also contained, shall be vested in the sheriff of the county wherein such lands, tenements, hereditaments, goods and chattels, shall lie or be found; and such sheriff is hereby authorised, empowered and required to sell at public vendue, and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the monies arising by such sale shall be by such sheriff or officer, upon oath, paid into the hands of the clerk of the superior court of the district where such prisoner shall be confined, for the uses and purposes hereafter mentioned, saving to every such prisoner his or her necessary apparel and utensils of trade.

Commissioners, & distribution pro rata.

VI. § 6. The judges of the superior court shall appoint two commissioners, who shall have full power to examine into the claims of all and singular the creditors of the person or persons imprisoned, as well those at whose suit he was committed, as of all others: and the said commissioners shall, by advertisement at the court-house of the district, or in some public newspaper or gazette, make known the time at which they purpose to examine such claims (which shall be within sixty days after their being appointed) and upon such creditors, their executors or administrators, agents or attornies appearing before them, and satisfying them of the justice of their claims, they shall proceed to make distribution amongst each and every of the creditors so appearing, in proportion to their respective demands; and the clerk of the said court is hereby directed to pay such monies so received upon the sale of such insolvent's estate into the hands of the said commissioners for the purposes aforesaid.

Person exempt from future arrest.

VII. § 7. The person of such debtor so discharged, shall never be arrested for the same debt, but execution may issue against any estate which the said insolvent debtor or debtors may afterwards acquire.

VIII. § 8. Where the party at whose suit or instance any such debtor shall be confined in execution, does not

1. Mad: 132

1 Plow: 68

If one be in execution, he ought to live of his own, and neither the plaintiff nor the Sheriff is bound to give him meat or drink, no more than if one distrain cattle, and puts them in a pound. for then the owner of the cattle ought to give them, and not he that distrained them, no more is the party or the Sheriff, who has one in execution, bound to give meat to the prisoner but he ought to live of his own goods, although he be in for felony, until he be attainted, and this by the course of the common law.

For before attainder the goods are his, and in his hands, and the common law in this point is confirmed by a statute; and if he has no goods, he shall live of the charity of others, and if others will give him nothing, let him die in the name of God, if he will, and impute the cause of it to his own fault, for his presumption and ill behaviour brought him to that imprisonment.

1 Plowden 68-

reside in this colony, nor hath any known agent or attorney here, it shall and may be lawful and sufficient for such insolvent debtor to give notice of such his intention to take the benefit of the said act for relief of insolvents, to the attorney at law who prosecuted the suit against him; and also where the debtor shall have remained in execution for the space of twenty days, it shall be lawful and sufficient for the sheriff or gaoler, in the like cases, to give notice thereof to the attorney who prosecuted the suit, and to demand security of him for the prison fees that shall arise after the expiration of the twenty days, and if he shall fail or refuse to give such security, then to discharge such debtor out of custody.

Notice to attorney at law.

Security for prison fees.

IX. If at any time hereafter any person being taken or charged on mesne process or execution, shall not be able to satisfy or pay his or her prison fees, shall after the expiration of twenty days be discharged by the creditor; and the sheriff or gaoler may demand or recover of the party or parties at whose suit such insolvent person shall be imprisoned, all such fees as shall become due on account of such imprisonment.

Debtors unable to pay prison fees to be discharged.

X. § 10. If any person who shall take such oath shall upon indictment of perjury be convicted thereon, he shall suffer all the pains of wilful perjury, and shall be liable to be taken on a new process; and shall never after have the benefit of this act.

Penalty for false oath.

XI. § 11. Where by this act an oath is required, the solemn affirmation of a Quaker shall be taken in lieu thereof; and every person convicted of wilful and false affirming, shall suffer the like penalties as for wilful and corrupt perjury.

Quakers may affirm

1808. C. 11.

XII. § 2. In all cases of executions against goods and chattels, and in the case of insolvent debtors applying for discharge, one bed and its necessary furniture, the property of the defendant or insolvent, shall always be deemed and held exempt from seizure, and be excepted like working tools and arms for muster, in the oath to be taken by the insolvent.

Bed and furniture to be allowed in cases of executions and insolvent debtors.

1809. C. 8.

XIII. § 1. Any person or persons, who may hereafter be imprisoned for debt, shall not be permitted to take the oath of insolvent debtors, unless he shall continue within the walls of said prison for the space of twenty days.

No person to take the insolvent debtor's oath unless confined in prison.

1810. C. 15.

Articles
not to be
taken in
execution.

XIV. In all cases of executions against the goods and chattels, and in the case of insolvent debtors applying for discharge, one wheel and cards, also one loom, the property of the defendant or insolvent, shall always be deemed and held exempt from seizure, and be excepted, like working tools and arms for muster, in the oath to be taken by the insolvent; any law, usage or custom to the contrary notwithstanding.

C. 20.

Law ex-
tended to
free per-
sons of co-
lor.

XV. The laws now in force in this state granting any privilege to insolvent debtors, are hereby extended to all free persons of colour, under the same rules, regulations and restrictions, to all intents and purposes, as the acts now are to insolvent debtors: any thing to the contrary notwithstanding.

1816. C. 9.

Who may
administer
the oath

XVI. The justices of the peace of any county within this state, shall and may legally cause to be brought before them, any person confined for debt within the jail of their county, and to administer to him, her or them the oath prescribed or the relief of insolvent debtors, and grant him, her or them a discharge as well when the execution under which the person of said debtor is confined has issued from the court of another county, as where it issued from the court of their own county; Provided, that nothing in this act shall be construed to repeal that part of said recited act which requires notice to be served on the creditor or creditors of such debtor or debtors.

INSOLVENT TAXABLES.

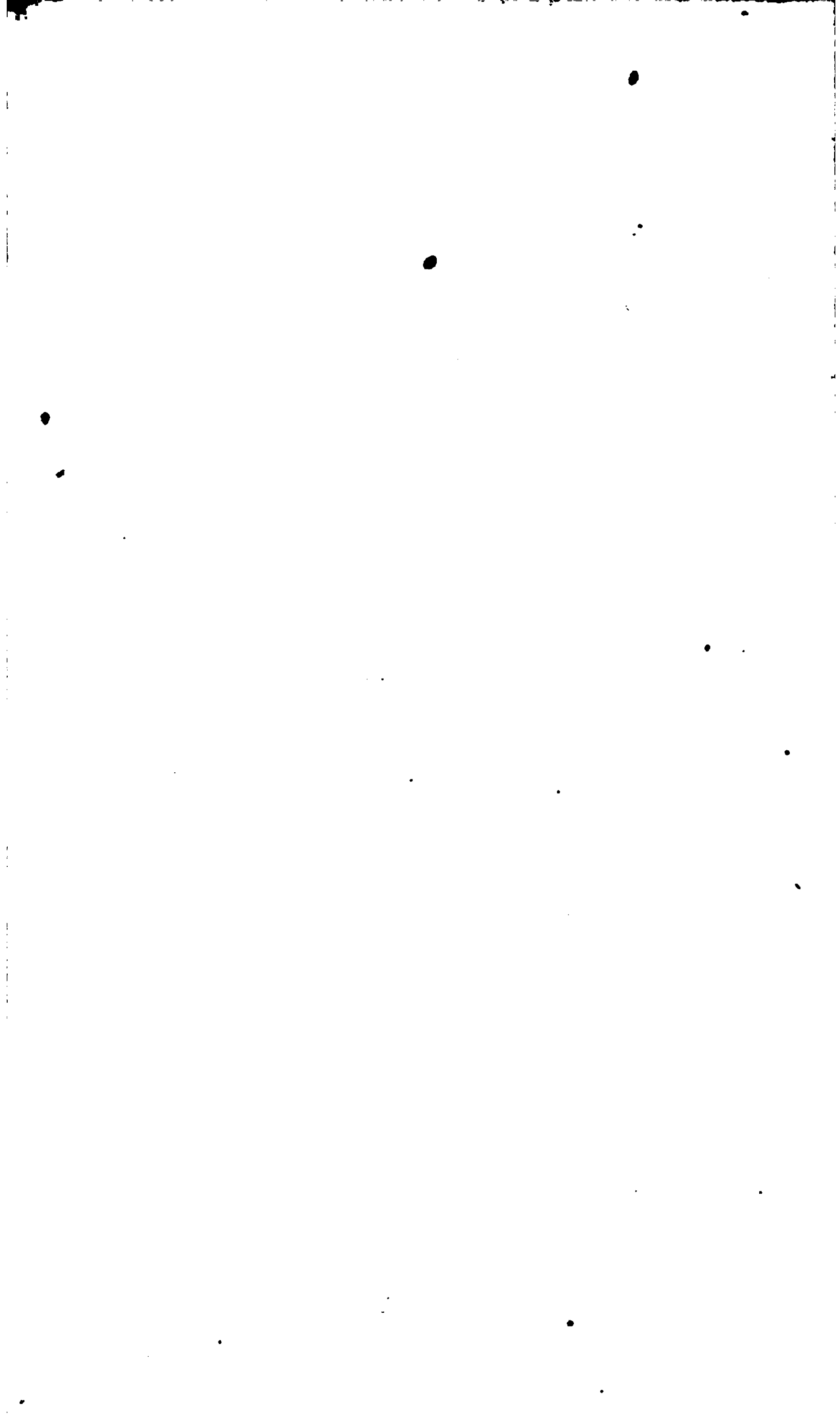
See Taxes.

INSPECTIONS AND INSPECTORS.

1784. C. 26.

Inspectors
to be ap-
pointed by
c'ty court.

I. § 2. The justices of the county courts of pleas and quarter sessions of the respective counties shall be, and are hereby authorised and required to nominate and appoint, in open court, one or more fit or proper person or persons, residing in the said county, to attend at such times and places as are by this act appointed and directed to inspect all such beef, pork, rice, tar, pitch and turpentine, staves and heading, fish, flour, butter, sawed lumber and shingles, as shall be exposed to sale for exportation within the respective counties according to this act; and



every inspector so appointed shall before he enters upon or executes his office, enter into bond, with two good and sufficient securities, in the penalty of 500l. current money, for the true and faithful discharge of his office according to the directions of this act, which bond and security every such court respectively is hereby empowered and required to demand and take, and cause to be acknowledged before them in open court and recorded, and the said bond shall be made payable to the Governor or Commander in Chief for the time being, and his successors in office, and shall be in force for the term of three years after such inspector shall be out of office, and in the name of the Governor or Commander in Chief for the time being, any person or persons injured, may and shall, at his, her or their costs and charges, commence and prosecute a suit or suits on such bond against the parties therein bound, their executors or administrators, and shall and may recover all damages which he, she or they may have sustained by reason of the breach of the condition thereof, and the said bond shall not become void upon the first recovery, or if judgment be given against any plaintiff or plaintiffs who may sue on such bond, but may be put in suit and prosecuted from time to time for the benefit of the party or parties injured, until the whole penalty expressed in such bond shall be recovered: If any verdict or judgment shall pass for such inspector or his security, the person or persons at whose instance such suit shall be prosecuted shall pay double costs: and every such inspector shall take the following oath (*which see under Oaths.*)

To give
bond.

How to be
proceeded
on for a
breach.

II. § 3. The county courts, at the death, or on the disability of any inspector, may appoint another to succeed such inspector; and if any death should happen in the vacation of such courts, any three justices of such court may nominate and appoint some other fit and proper person as inspector until the next succeeding court for such county.

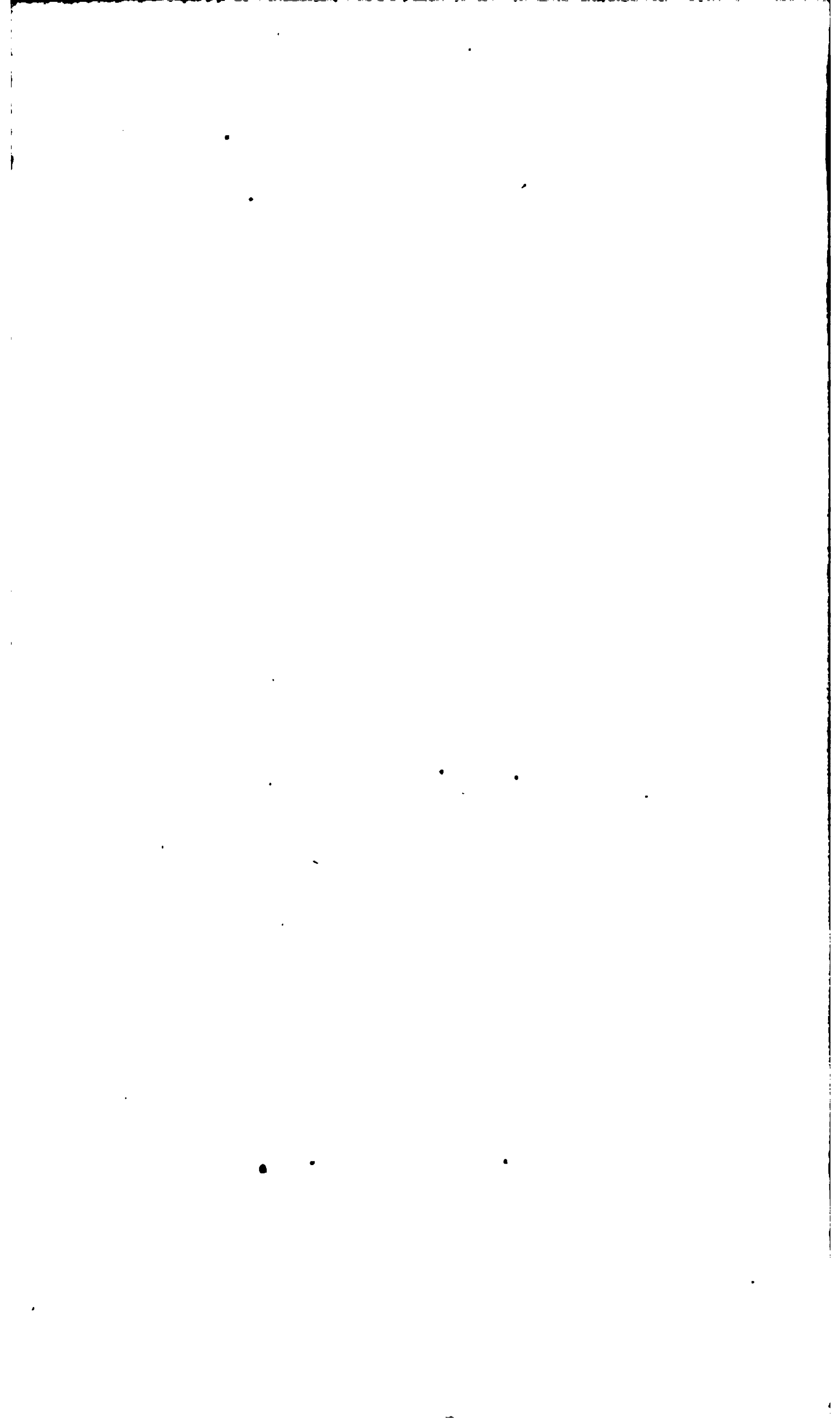
The power
of appoint-
ing suc-
cessors.

III § 4. The places and landings hereafter mentioned are hereby appointed for the inspection of said articles, to which places all the said commodities shall be brought, examined and inspected, according to the directions hereinafter mentioned, that is to say, in New-Hanover County, at the town of Wilmington, New Topsail Inlet and South Washington; in Brunswick county, at Brunswick, Walkersburg, and Eagle's Island, opposite to the town of

Places of
Inspection
for the se-
veral coun-
ties.

Wilmington, and the great Island below the Flats, and all other convenient landings, provided the inspector appointed by the court of Brunswick for the landing on Eagle's Island opposite Wilmington, do reside in that town: in Onslow county, at Swansborough, Bear Inlet, New River Inlet, and all other convenient landings: in Carteret county, at Beaufort, David Bell's landing on White Oak, and Abraham Dudley's on Houston's Creek; in Craven, at Newbern, at Newbern Club Foot's Creek, Lower Broad Creek and Swift Creek Bridge, and at *Harris's landing*; in Beaufort, at Bath, Washington, Broad Creek, South Dividing Creek, Durham Creek, and Blount's Creek; in Pitt, at Martinsborough, Lanier's landing, E. Salter's, Dupree's and Ellis's landing, Spiers's landing, the Red Banks and Simpson's landing; in Hyde county, at Woodstock and Log-house landing; in Tyrrell, at Ballard's wharf, Coniby, and other convenient places; in Chowan county, at Edenton, Rocky Hook, Black Hall's, Red Banks, Wilder's landing; in Bertie, at the landings heretofore in use for lading of vessels; in Hertford, at the landings heretofore in use for lading of vessels; in Northampton, at Figure's Point, Pitch landing, Jones's warehouse; in Halifax, at Halifaxtown and Edwards's Ferry; in Edgecomb county, at Tarborough, and all other convenient landings; in Perquimons, at the landings heretofore used for lading of vessels; in Pasquotank county, at Nixonton, New Begun Creek, Pasquotank River bridge, Little River bridge, Simond's Creek bridge, Winfield and Palmer's landing, Possum Quarter; in Currituck, at Tull's Creek bridge, Moyack Creek, Widow Jarvis's near the Narrows, Indian Town bridge, Chccocomic, near Thomas Pain's landing at the head of Tull's Creek, Currituck court house, mouth of North River, Cowen-jock bridge, and Lindsay's; in Cumberland, at Fayetteville; Camden, at the landings where commodities have usually been shipped; Wayne county, Cobb's landing, Spring Bank old store, West Point;—Martin county, at the landings heretofore used; Dobbs county, Kinston, Abraham Sheppard's Bryant Whitfield's, Benjamin Caswell's landing, Peacock's bridge; Montgomery county, at Allen's landing, Jones county, at Trenton, Pollock's ferry, and other convenient places; Johnston county, Smithfield, and Boon's landing; Gates county, at Old Town, Bennet's Creek, and other convenient place; Provided nevertheless, that any person or persons having, at any landing which is not by this act





appointed a place of public inspection, a quantity of merchandize for exportation, and being desirous to ship the same directly on board a vessel for exportation from such landing, it shall and may be lawful for such person or persons intending to ship and export the said merchandize as aforesaid, to call any inspector, who is hereby required to inspect and brand the same, under the rules and directions herein mentioned.

IV. § 5. Where any such inspector shall be appointed by this act to be held in any town that sends a Representative to the Assembly, the court of the county wherein such town is, shall not nominate or appoint any other inspectors for any such inspection but such person or persons who shall during his continuance in office reside in such town. Inspectors of certain towns to reside therein.

V. § 6. No master or commander of any ship or vessel shall take on board his ship or vessel any such cask or barrel, or other inspectable commodities as aforesaid, without being inspected and branded as by this act is required, under the penalty of 100l. for each offence, one half to the informer, and the other half to the wardens of the county wherein the offence shall be committed, to the use of the poor of such county, to be recovered, with costs, by action of debt in any court of record having cognizance thereof. Penalties on masters of vessels for receiving uninspected articles.

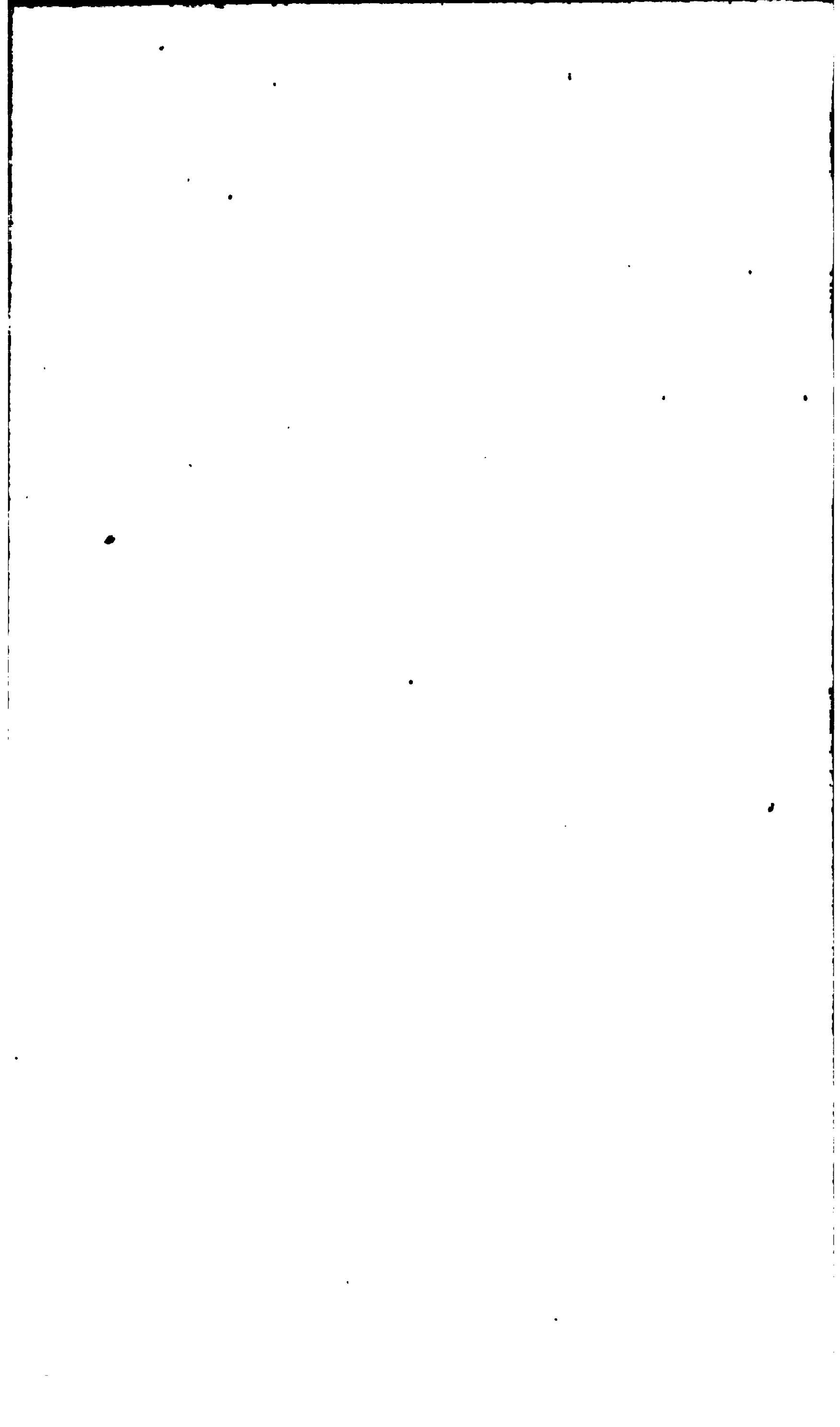
VI. § 7. No naval officer shall enter any ship or vessel before the master or commander thereof shall have taken the following oath: "You shall swear that you will not export in the ship or vessel whereof you are master or commander, any barrel of beef, pork, rice, tar, pitch, turpentine, fish, flour, or butter, that shall not have an inspector's brand thereon, except such as shall be necessary for the vessel's use": Which oath the naval officer of the port, or his deputy, is hereby empowered and required to administer, and shall and may take and receive of such master for the same 2s. 8d. and no naval officer shall clear out any ship or vessel until the master shall produce a certificate or certificates from the inspector or inspectors that his cargo has been inspected agreeable to this act, under the penalty of 50l. current money, to be recovered and applied as before directed. Master of vessels to take an oath.

VII. § 8. Every naval officer, or his deputy, shall grant a certificate to the master or commander of any ship or vessel of his having taken such oath, under the penalty of 25l. for each neglect or refusal, to be recovered and Naval officer to certify the taking of such oath.

applied as herein-before directed ; for which certificate the naval officer shall and may receive three shillings.

VIII. § 9 Every such inspector shall constantly attend at the places for which he shall or may be appointed, and shall provide an iron to brand any of the commodities, bearing the name of the inspector and his place of residence, and shall find labourers equally with the owner to assist in weighing the several commodities he shall inspect and weigh, and also shall find and provide proper steelyards or scales, of the lawful standard, for that purpose ; and if any inspector shall neglect his duty, or brand or stamp any of the commodities contrary to this act, or brand any empty barrel, or lend his brand to any person or persons whatsoever, shall forfeit and pay for every barrel or cask of beef, pork or rice, fish or flour, 10l and for every barrel of tar, pitch or turpentine, 20s. and for branding any empty barrel or lending his brand, 100l. to be recovered with costs by action of debt, by and for the use of any person who shall sue for the same before any jurisdiction having cognizance thereof : and every other person or persons that shall by any ways or means brand, or procure to be branded, any cask or barrel as aforesaid, than by the inspector or his assistant, he or they so offending, shall forfeit and pay for every such offence the same fines and penalties as inspectors are by this act liable to pay for breach of duty or misbehaviour.

Beef and pork. **IX. § 10.** All beef or pork packed within this state, for sale or exportation, shall be put in good and sufficient new white oak, or turkey or water oak casks, and all barrels and half barrels shall be made of timber seasoned at least six months after the riving, the heading not less than three quarters of an inch thick, and well dowed, twelve good substantial hoops on each cask, and the whole to be tight, fit to hold pickle, and made in a workmanlike manner, and the meat well salted and cured, with at least half a bushel of salt to each barrel, and nailed and packed, and not any boar's flesh in any barrel of pork, nor any heads or bull's flesh in any barrel of beef ; and every barrel of salted beef which shall be exposed to sale in, or exported from this state, shall be of the guage of 28 gallons wine measure, and no more, and shall contain 200 pounds weight of salted meat, and not more than two shins ; and every merchantable barrel of salted pork, which shall be exported from, or exposed to sale within this state, shall be of the guage of 29 gallons of wine measure. and each barrel shall contain 200 pounds of salted meat, and not more than two



heads; and every half barrel of beef and pork shall be of the gudge of 15 gallons of the measure aforesaid, and shall contain 100 pounds of salted meat, and if beef not more than one shin, and if pork not more than one head. This act of 1791, c. 20, § 1, shall not reach or affect any contracts for beef or pork heretofore made or entered into. E-

Rice.

very cask of rice shall be filled with sound and well cleaned rice, and after the same has been inspected, found good and merchantable, every such barrel shall be by him branded as aforesaid, and a certificate thereof given to the owner, bearing date in words at length the same day such commodity was inspected and passed. All fish here-

Fish.

after to be exported from this state, shall be packed in good and sufficient barrels, each barrel shall be at least

Act of Oc-
tober 1784

28 inches in length, and each barrel head shall be 17 1-2 inches diameter, and shall contain 80 gallons, and made in a workmanlike manner, and full of good sound fish, with a sufficient quantity of salt, and shall be inspected by the inspector of the county where the same may be saved, at the time of shipping the same, and where the barrels shall appear to be good and full of good sound fish, by the best information the inspector can make, by examining or broaching or otherwise, the same shall be deemed merchantable on the inspector's marking, branding, &c. otherwise it shall not be lawful to export any fish from this state. Each barrel of flour exposed to sale in, or exported from this state, by land or water, shall contain 196 pounds of nett flour, well ground, bolted and packed, and every maker and manufacturer of the same shall brand in figures on the cask the nett weight of the same, with the first letters of his christian name, and surname at full length; and every cask made to contain flour for sale or exportation as aforesaid, shall be made of good seasoned wood, 26 inches in length, the heads whereof shall be 17 inches in width, and shall be bound with 8 good hoops.

Flour.

X. Every maker and manufacturer of flour shall be obliged to nail each cask sufficiently, with not less than 14 nails, and a part thereof in the hoops, that is to say, 4 nails in each head and 3 in each of the last quarter hoops: and each miller or manufacturer as aforesaid, shall receive the sum of 1s. for bolting, packing and nailing every barrel of flour bolted, and that only; and every miller or manufacturer as aforesaid, failing to perform any or all of the above requisites and duties, or transgressing the same shall forfeit and pay the sum of 10s. for every barrel by him so manufactured, to be recovered by any per-

Manufac-
turer of
flour, his
duty.Act 1791,
c. 14, s. 2.Penalty
for neglect

son complaining and informing, before any jurisdiction having cognizance of the same.

Inspector's
duties and
charges.

XI. Every inspector of flour shall be obliged to bore each cask by him inspected, with a piercer of the length of the cask, and not less than half an inch in diameter, and shall brand on the same, in words of full length, the quality of the flour, either fine or superfine, as he may judge the same to be; and every inspector as aforesaid shall be allowed the sum of 6d. for each barrel so branded and inspected by him; and every inspector as aforesaid shall, if required, give the owner of the flour so inspected and branded a certificate of the same, and shall keep a record or book of inspection of all flour so branded and inspected as aforesaid, setting forth the owner of the flour and miller's name, with the quality of each cask.

Penalty
for fraud
after in-
spection.

XII. If any exporter or owner of flour, after having the same inspected, shall attempt to repack or adulterate any flour by him received, either by mixing or putting other flour into the said cask or casks, in order to defraud the purchaser, such owner or exporter shall forfeit and pay the sum of 10l. to any person claiming or informing, for every such offence, to be recovered before any jurisdiction having cognizance thereof.

Penalty a-
gainst in-
spectors of
flour.

XIII. Every inspector failing to perform the duties and requisites above mentioned, *in respect to flour*, shall forfeit and pay the sum of 5l. for every offence by him so committed, to be recovered by action of debt before any jurisdiction having cognizance of the same, by any person complaining or informing thereof.

Pitch and
turpentine

XIV. Every barrel of pitch or turpentine shall contain thirty-two gallons, and be free from any fraudulent mixture, and in good and sufficient casks made of good seasoned staves, *and well secured by twelve good hoops* and the joint of the head placed perpendicular to the bung, and before it be branded by the inspector shall be weighed in his presence, *and shall be well filled with good pitch or turpentine*; and if any pitch or turpentine shall be found by the inspector to be fraudulently mixed, the same shall be condemned and forfeited to the use of the poor where the same shall be, and may by the wardens thereof be cleansed and sold for such use; and every barrel of tar shall be of the guage of thirty-two gallons wine measure, and every barrel of less size, or in bad casks, not being two-thirds bound with hoops, shall be put in merchantable order at the expence of the owner; and every barrel of tar, pitch and turpentine, after the same shall be inspected, guaged,

found clean, well filled, and in merchantable order, shall be by him branded. Water shall not be accounted a fraudulent mixture in any tar, but in such cases, the barrel shall not be branded by any inspector until the same is as free from water as it can be made.

XV. § 13. Every maker of tar, pitch or turpentine, shall mark or brand every such barrel with the initial letters of his or her name not less than one inch long, under the penalty of 1s. for every barrel as may not be so branded; and every person so failing or neglecting, shall also pay one half-penny per barrel to the inspector for the same with the initial letters of the maker's name, which fee shall be paid by the person paying the fees of inspection, and by him may be charged to the maker;— and every inspector shall keep a book, in which shall be fairly entered the maker's name and mark of every barrel of beef, pork, rice, tar, pitch and turpentine, flour, fish and butter, the number of barrels landed, the merchant or shipper's name causing the same to be inspected, and the time of inspection, and shall give a certificate of any parcel to any person requiring the same, on payment of 1s.

Tar &c. to be marked by the maker.

Inspector's duty.

XVI. § 14. No beef, pork, rice, fish, flour, or butter shall be shipped on board any ship or vessel for exportation after the expiration of sixty days from the time the same was inspected, nor any tar, pitch or turpentine after the expiration of twenty days, until the same shall have again been inspected, and certificate or certificates granted in the same manner as if such commodities had never been inspected, and every person offending herein shall forfeit five hundred pounds, and the master or commander of such ship or vessel shall be liable to the same penalty as for taking on board any of the said commodities without being branded.

Penalty for shipping in certain cases. But see act of 1813 post.

XVII. § 15. All staves and heading which shall be sold or shipped for exportation, shall be of the following dimensions, otherwise not merchantable, to wit: Butt staves shall be 5 feet 9 inches long, 4 inches broad and an inch thick on the heart or thin edge, and free from sap; pipe staves, 4 feet 8 inches long, 4 inches broad, 3-4's of an inch thick on the heart or thin edge, and free from sap; hogshead staves shall be 3 feet 6 inches long, 4 inches broad and 3-4's of an inch thick on the heart or thin edge, and free from sap; barrel staves shall be 2 feet 9 inches long, 4 inches broad and 3-4's of an inch thick on the heart or thin edge and free from sap; white oak hogshead headings shall be 32 inches long, 6 inches broad, and 1 inch thick on the heart

Staves and heading.

or thin edge, and free from sap; barrel heading shall be 19 inches long, 6 inches broad, and 3-4's of an inch thick on the heart or thin edge, and clear of sap; which said several sorts and kinds shall be of the aforesaid dimensions at least, and made of sound timber.

Boards &
plank,
scantling
& shingles

XVIII. § 16. The dimensions of boards, plank, scantling and shingles, shall be as follows, or otherwise not merchantable: all shingles not less than 18 inches long, 4 inches broad and 5-8's of an inch thick, well made and of sound timber; and no boards or planks shall be deemed merchantable or passed by an inspector, that is not free from any split, nor less than 12 inches long, hath no edge less than half an inch thick, and as near as may be of an equal thickness at each end; and every board, plank, piece of scantling, or other square timber, being marked with the number of more superficial feet than are contained therein, shall be forfeited to the wardens of the county for the use of the poor thereof. No staves or heading, shingles, boards, plank or scantling, shall be inspected, unless required by the purchaser.

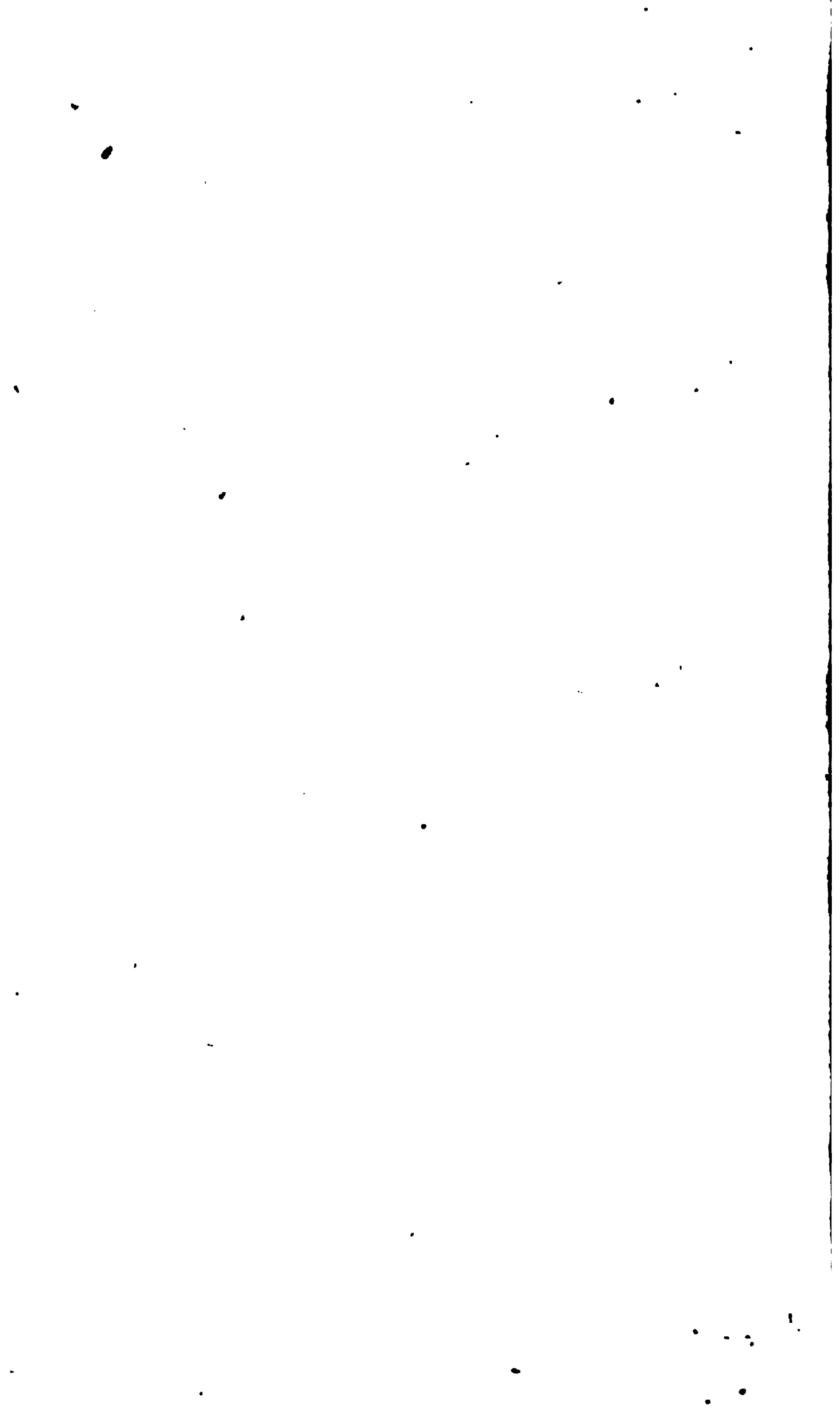
Coopers to
brand their
barrels.

Penalty
for neglect

XIX. § 17. No cooper or other person whatsoever making casks, shall expose to sale any barrel or half barrel for the holding of pork or beef, other than such as are by this act directed to be made for that use, under the penalty of 20s. and every cooper or other person making barrels or half barrels, before they expose the same for sale, shall set his or her proper brand upon the same, which brand shall be recorded in the office of the clerk of the county court where he or they shall reside, under the penalty of 10l. for each and every neglect; and every barrel for tar, pitch and turpentine shall be branded in manner aforesaid by the maker thereof, under the penalty of 5s.

Certificate
and oath
of the sel-
ler or ex-
porter.

XX. § 18. Every seller or exporter of beef, pork, rice, tar, pitch and turpentine, fish, flour and butter, shall produce the certificate of the inspector who inspected the same, and make oath or affirmation, if required, before a justice of the peace, on delivery of the goods sold or exported, that the several commodities by him to be sold or exported are the same that were inspected and passed, and do contain the full quantity mentioned in such certificate, without embezzlement to his knowledge; which oath or affirmation the justice shall and is hereby required to certify on the back of the certificate, which certificate the seller shall deliver to the buyer of such commodities sold, and the person exporting such commodities shall deliver



INSPECTIONS AND INSPECTORS

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such certificate to the master of the ship or vessel on board which the same shall be shipped; and if such seller or exporter shall refuse to make oath or affirmation, he shall for every such offence forfeit and pay the sum of \$100.

XXI. § 19. No person holding any post or place of profit, by deputation or otherwise, shall be appointed to the office of inspector, and no inspector shall be capable of being elected a member of Assembly; and if any person shall be appointed to such office, and shall accept of any post or place of profit after such appointment, he shall be rendered incapable of holding his said office of inspector, and the court shall proceed to appoint another inspector in the room of such person, according to the directions of this act.

Persons incapable of holding the office of Inspector.

XXII. § 21. The fines and forfeitures by this act inflicted, for which no method of recovery or application is herein before directed, shall and may be recovered with costs before any jurisdiction having cognizance thereof, one half to the use of the prosecutor, and the other half to the county wherein such penalty shall be incurred, to be applied by the justices of the inferior court towards lessening the county tax.

Forfeitures, how recovered & applied.

XXIII. § 22. No inspector, by himself or others, shall purchase any cullings, or other articles, that do not pass inspection, upon pain of forfeiting \$50. to be recovered and applied in like manner, as other fines and forfeitures are by this act.

Penalty on inspectors for buying articles not passed.

1784. C. 5.

XXIV. § 6. No inspector shall hereafter refuse to pass and brand any barrel containing any inspectable commodity on account of width or thickness of the staves, provided no stave exceed five inches in width, and is at least three quarters of an inch thick at the chime or cross, and of proportionable thickness in the bilge.

What barrels are sufficient.

XXV. § 9. It shall be lawful for the inspectors to inspect all hog's-lard which shall be exported in casks, respecting the quality thereof, for which the inspector shall be entitled to fees similar to those allowed in pork, respect being had to the size of the cask; and the article of hog's fat or lard shall not hereafter be exported unless in cypress or juniper casks, and inspected, under the pains and penalties inflicted by the law for exporting uninspected pork, beef, or any other commodities liable by law to be inspected.

Hogs lard.

1789. C. 17.

An inspection is hereby established on Neuse River, at Harris's landing or ferry, heretofore Bryan's, under the same rules, regulations and restrictions, as directed by act, April 1784. C. 26; and the county court of Craven are directed and empowered to appoint an inspector for said landing, at the same and in the same manner other inspectors for said county are appointed, who shall have the same advantages, and be subject to the same pains and penalties, as other inspectors; and commodities by him inspected and passed shall be merchantable and proper for shipping, in like manner with those inspected by other inspectors above the Town of Newbern.

1791. C. 14.

Inspectors
to hold
their offices
during
good behaviour.

Trial of
removal &
appoint-
ment.

XXVI. § 8. All public inspectors of commodities heretofore appointed, and who shall be hereafter appointed, shall hold their office during good behaviour: Provided nevertheless, that where any inspector shall be guilty of malpractice or misbehaviour in his office, on complaint being made to the county court, they shall issue a citation and cause him or them to appear before the said court at the ensuing term, and if the charges shall be supported by good and sufficient testimony, and confirmed by the verdict of a jury, they shall remove such inspector from his said office, and appoint another in his stead, who shall hold his office during good behaviour as aforesaid.

1793. C. 12.

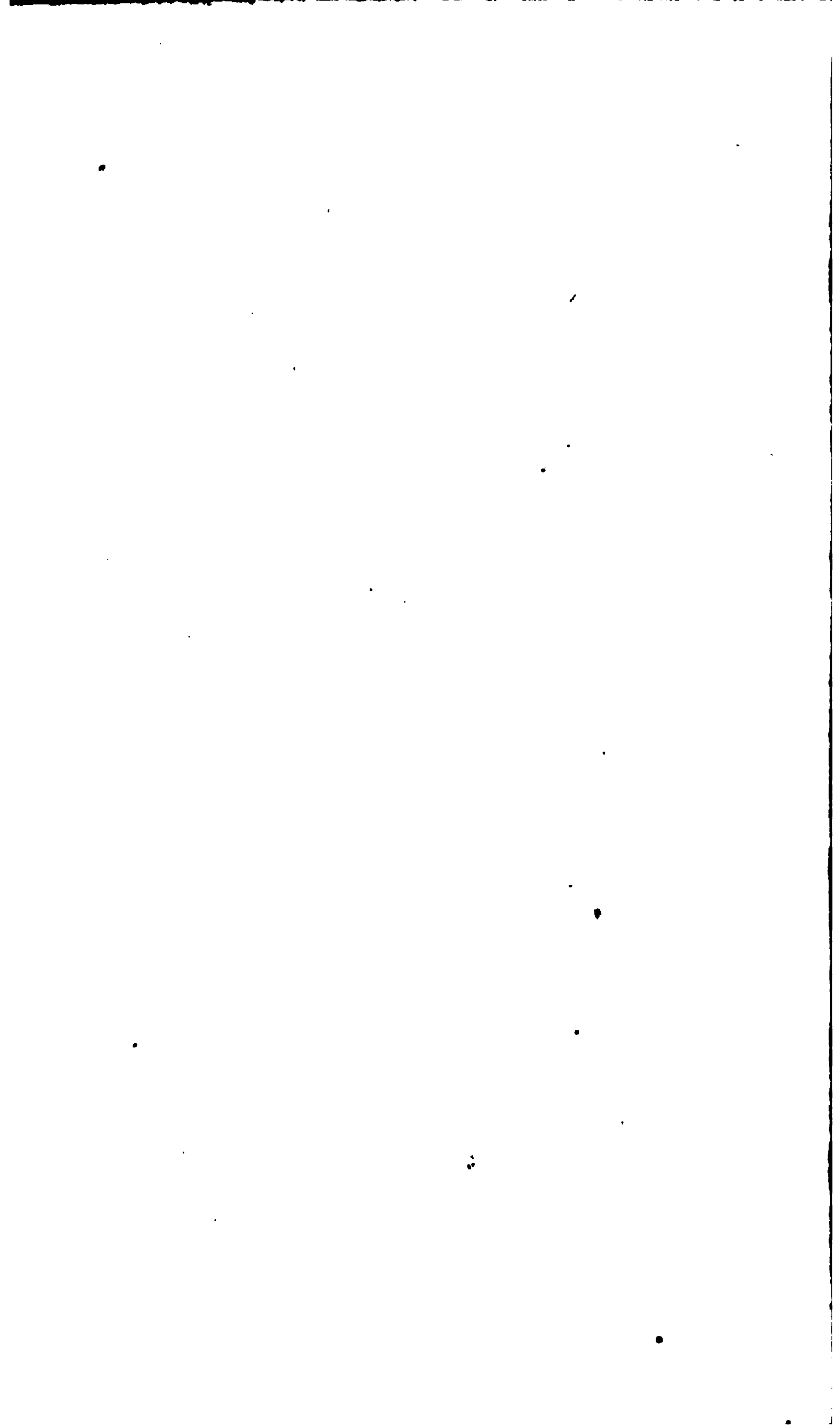
County
court may
appoint in-
spections
& inspec-
tors at dis-
cretion.

XXVII. § 4. The several county courts in this state may appoint such place or places of inspection in their respective counties as they may think necessary, proper and convenient, and to appoint one or more inspectors for such place or places, whose duty it shall be to inspect such article or articles as by law are required, which are or may be brought to his place of inspection for that purpose; which inspectors, when so appointed, shall take the same oaths, and be subject to the same rules, regulations and restrictions, and be entitled to the same benefits and emoluments as directed by the several acts of Assembly in force in this state.

1796. C. 19.

No In-
spector to
appoint a
deputy.

XXVIII. § 1. It shall not be lawful for any person appointed inspector agreeable to the act of Assembly for establishing inspectors, to appoint any person or persons to act in said office of inspection under him or them; but



it shall be the duty of every inspector so appointed, to attend personally to the inspection of all articles or produce which the said inspector is entitled to inspect; and if any inspector shall employ any person or persons to act as aforesaid, such inspector shall forfeit and pay the sum of 100l. to be recovered by action of debt, in any court of record having cognizance thereof, for every such offence, one half to the use of the state, the other half to the person suing for the same.

Penalty if he does.

1799 C. 22.

XXIX. § 1. No person shall inspect any saw mill lumber, staves or shingles without being first qualified as directed by 1784, C. 26, under the penalty of 20l. for every such offence; to be recovered by any jurisdiction having cognizance thereof, one half to the use of the state, the other half to the person suing for the same.

Penalty on persons inspecting lumber without being qualified.

XXX. § 2. Any three justices of the peace for the county including such place of inspection, shall be at liberty to appoint one or more persons to act as inspectors until the next succeeding county court.

3 justices to make temporary appointments.

1807 C. 12.

XXXI. § 1. If any miller or manufacturer of flour shall put up flour in any barrel, for the purpose of sale or exportation, which barrel does not contain one hundred and ninety-six pounds nett flour, well ground, bolted and packed, or shall not brand on each barrel of flour the nett weight of the same, in figures, and also the first letters of his christian name, and his surname at full length; or shall put up flour for sale or exportation as aforesaid, in a barrel not made of good seasoned oak or ash wood, 26 inches in length, bounded with ten good hoops, and with heads 17 inches in width, every such miller or manufacturer so offending against any of the said provisions, shall forfeit and pay the sum of 5l. to be recovered before any jurisdiction having cognizance thereof, by any person suing for the same.

Penalty for putting up flour improperly.

XXXII. § 2. When any person shall sell any barrel or barrels of flour not containing the full quantity by law required, the purchaser, unless there shall be a special contract to the contrary, shall be allowed to recover the value of the deficiency in an action on the case, for money had and received, before any jurisdiction having cognizance of the same.

In case of deficiency what may be done.

1810. C. 8.

XXXIII. § 1. An inspector of flour shall be appointed at each of the following places, to wit: Fayetteville, Wil-

Inspectors of flour to

be appointed. mington, Newbern, Edenton, Washington, Tarborough
ed. and Plymouth.

How to be
appointed.

XXXIV. § 2. The courts of the several counties in which the places aforesaid are situate, shall, at the first court of pleas and quarter sessions which shall be held in said counties after the first day of January in each and every year, not less than ten acting justices being present, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, at each of the places aforesaid; and in case of the death of any person so appointed, or his refusal or neglect to act, the justices of said counties, respectively, or any three of them, shall, as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, refusing or neglecting to act, who shall execute the duties of his office until the next court held for the county where such vacancy may have happened; and at such court, the justices shall appoint, in manner before directed, some person to be inspector of flour for the residue of the year.

Flour to be
of due fine-
ness.

XXXV. § 3. All bolted wheat flour, and every cask thereof, brought to any of the places before mentioned for sale or exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or flour of any other grain than wheat.

Flour
casks to be
well made,
the

XXXVI. § 4. All flour casks which shall be brought to any of the before mentioned places for sale or exportation, shall be well made with good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be made of the following dimensions, to wit: the staves shall be twenty-seven inches in length, and the head seventeen and one half inches in diameter; and half-barrels of the following dimensions, to wit: the staves shall be of the length of twenty-three inches, and the diameter of each head twelve and one half inches.

Millers to
brand
their flour.
Penalty.

XXXVII. § 5. Every miller of flour for sale or exportation, shall provide and keep a distinguishable mark or brand, containing the initials of his christian name and his surname at length, with which he shall brand every barrel of flour, and mark thereon the nett and tare weight, before the same shall be removed from the place where it was bolted, under the penalty of forty cents for every cask of flour not hooped, marked and branded, and nailed as

aforesaid, to be recovered from such miller who shall neglect to comply with the directions of this act, or from the person who shall bring such flour to any of the places aforesaid for sale; and in case said penalty should be recovered from the person bringing such flour for sale, such person shall and may recover the same from the miller or bolter from whom he purchased or received the same. Provided it appears, that he gave notice to said miller or bolter that he intended to carry the same to one of the places aforesaid for sale or exportation, and that he requested said miller or bolter to secure and brand said barrels.

XXXVIII. § 6. Every miller or bolter shall put in each barrel the full quantity of one hundred and ninety six pounds of flour, and shall put into each half-barrel the full quantity of ninety eight pounds of flour; and if any one of them shall put into any cask a less quantity than is directed by this act, he shall forfeit and pay for the deficiency of each pound the sum of ten cents.

What each barrel and half-barrel shall contain.

XXXIX. § 7. The inspector, upon suspicion, or at the request of the purchaser, shall, and he is hereby required to unpack any cask of flour, and if there shall be a less quantity than above directed, the miller, bolter or seller, shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise, the charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Inspector may unpack flour.

XL. § 8. Each and every cask of flour brought to any of the before mentioned places for sale, or to be from thence laden or shipped for exportation, or which in said places shall be manufactured for sale or exportation, shall be submitted to the view and examination of the inspector of such place, who shall inspect and try the same by boring through the cask from one head, with an instrument not exceeding half an inch in diameter, and equal in length with a barrel of flour, to be by him provided for the purpose; and if he shall judge that the same is well packed and merchantable, according to the directions of this act, he shall plug up the hole and brand the cask in the quarter with the name of the place in which he is inspector, with a public brand mark, to be by him provided for that purpose, and shall also brand and mark the degree of fineness which he, on inspection, shall determine the same to be of; which degree shall be distinguished as follows, to wit: superfine, fine, middling, ship-stuff. For which purpose, the inspector shall have and receive from the

Manner in which flour shall be examined.

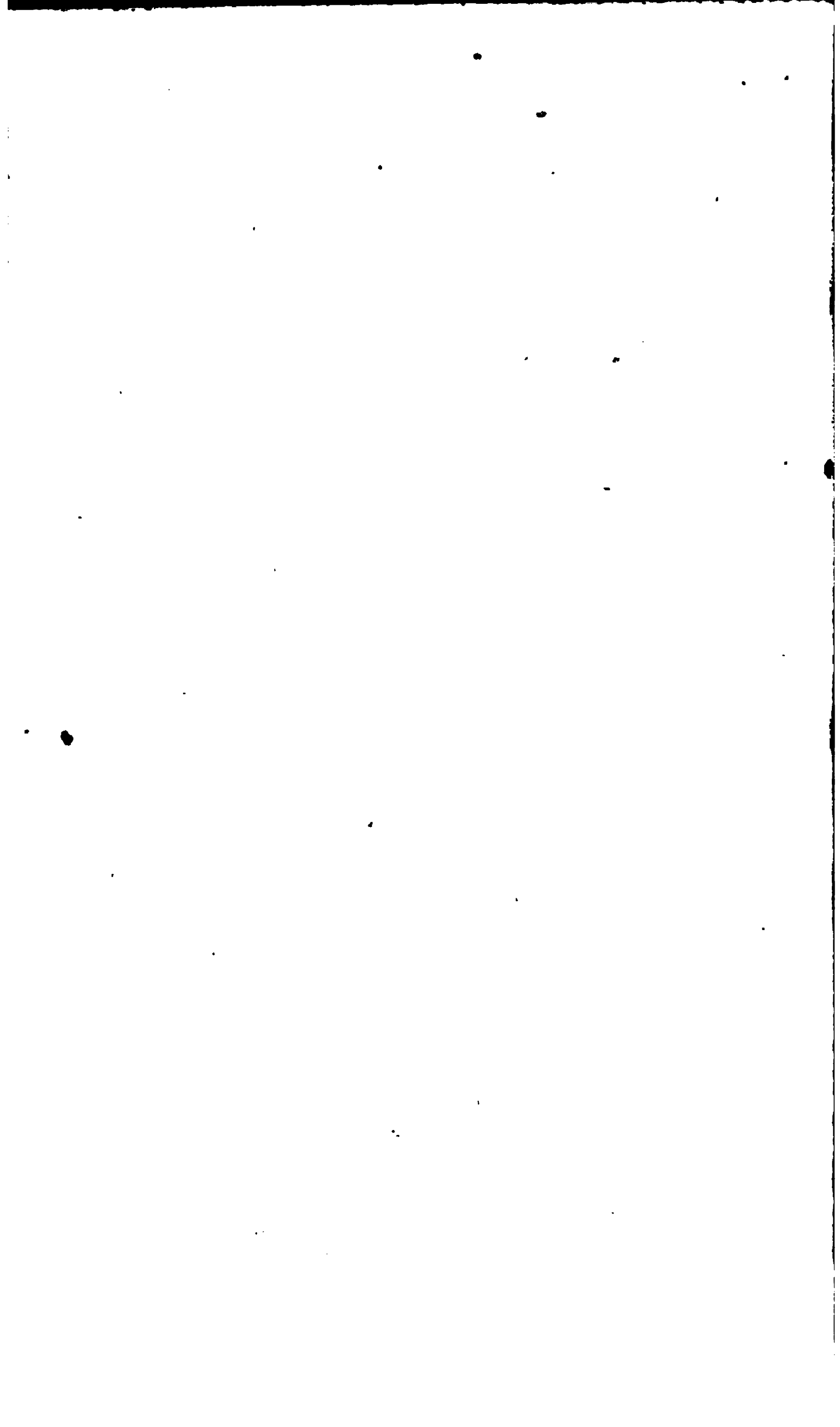
owner of such flour, the sum of five cents for each cask by him thus inspected. And no inspector shall pass any flour which shall prove on examination to be unmerchantable, agreeable to the true intent and meaning of this act, but shall cause the same to be marked on the bilge *condemned*, or secure it for further examination, if required; which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owners thereof, the same rate and prices as if the same had been passed. And it shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any barrel of flour marked *condemned* by an inspector: or to export or lade on board of any ship or vessel for exportation out of this state, any casks or barrels of flour not inspected and branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel of flour exported or put on board of any ship or vessel for exportation. And whereas it may so happen that evil disposed persons may pack flour and meal in old casks, which have been previously branded agreeably to this act, by which means that valuable commodity may be injured at foreign markets.

Penalty
for pack-
ing flour in
old casks

XL I. § 9. If any person shall pack flour or meal of any kind whatever in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay the sum of twenty dollars for every barrel so packed for sale; to be recovered before any justice of the peace, one half to the use of the informer, the other half to the miller who has been injured by such false packing, and he further liable to the action of the party aggrieved.

Oath to be
taken by
the inspec-
tor.

XL II. § 10. Every inspector of flour, before he enters on the execution of his office, shall make oath or affirmation, "that he will without favor, affection, malice or partiality, inspect all flour brought to him, and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand, or cause to be branded as passed, any cask or casks of flour, that do not appear to him, to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained; and that he will not pass or brand any such casks, unless they be of such size, goodness and thickness as by this act required.



XLIII. § 11. No inspector of flour shall, directly or indirectly, purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased.

No inspector to be a purchaser of flour.

XLIV. § 12. If any person shall alter the mark branded on any cask of flour by an inspector; or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of any inspector's mark or brand; or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour; or after any cask of flour shall be branded "*condemned*," shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask.

Penalty for altering the brand of an inspector, &c.

XLV. § 13. The courts of the several counties in which the before mentioned places are situate, may, upon conviction, at any time remove from office, any inspector of flour, for neglect of duty, malfeasance or corrupt practices, and appoint another inspector to fill such vacancy for the residue of the year.

Inspectors may be removed from office

XLVI. § 14. Each and every forfeiture and penalty, by this act imposed (except those mentioned in the ninth section of this act) shall and may be recovered in an action of debt, before any jurisdiction having cognizance thereof, to the use of the person suing for the same.

How forfeitures shall be recovered.

1811. C 2.

XLVII. § 1. Whenever any person may think himself aggrieved by the improper decision of any inspector of flour within this state, it shall be lawful for the owner thereof, or his agent to secure it for further examination, which examination he shall cause to be made within sixty days thereof, by applying to a justice of the peace, whose duty it shall be to issue a warrant directed to three indifferent persons well skilled in the manufacture of flour; one of whom shall be named by the owner or possessor of the flour, one by the inspector, and the third by the magistrate; which said three persons, having first taken the oath or affirmation in the before recited act, directed to be taken by the inspector, shall proceed carefully to view and examine the said flour; and if they, or any two of them, shall differ in opinion with the inspector, as to the quality of said flour, it shall be the duty of the inspector to brand and mark the same according to their judgment, and moreover shall pay all costs attending the said examination; but if they shall be of opinion that the judg-

Owners of flour permitted to have it re-examined.

Who shall pay the cost of re-examination.

ment of the inspector is correct, the owner or possessor of said flour shall pay costs.

Inspector's fees.

XLVIII. § 2. Each inspector, appointed agreeable to the before recited act, shall have and receive from the owner or owners of all flour by him inspected, the sum of three cents for each cask, and no more; and for coopering, at the rate of three cents for each hoop necessarily furnished.

Inspector authorised to appoint assistants in certain cases.

XLIX. § 3. If the quantity of flour brought to any place of inspection within this state, should at any time be so great that the inspector cannot examine with sufficient dispatch; or if by reason of sickness he should be incapable of discharging the duties of his office, in such cases it shall be lawful for him to appoint one or more persons of good repute and skill in the quality of flour, to assist him in the execution of his office; such assistants having taken the oath or affirmation prescribed by the before recited act, shall be authorised to inspect and brand flour in the same manner as the inspector himself might do: Provided, that the said inspector shall be liable for all misconduct in office of his said deputies, and for costs in case of appeal as aforesaid.

Penalty of \$5 each barrel, for exporting uninspected flour.

L. § 4. If any master, owner or commander of any ship, vessel, boat or craft, shall receive any barrel or barrels of flour on board his ship, vessel, boat or craft, for exportation or transportation from one town or port, being a place of inspection, to another, which is not inspected, approved and branded, as in the said act is directed, shall forfeit and pay the sum of five dollars for each and every cask so received, recoverable in an action of debt before any jurisdiction having cognizance thereof, to the use of the person suing for the same.

Degrees of flour.

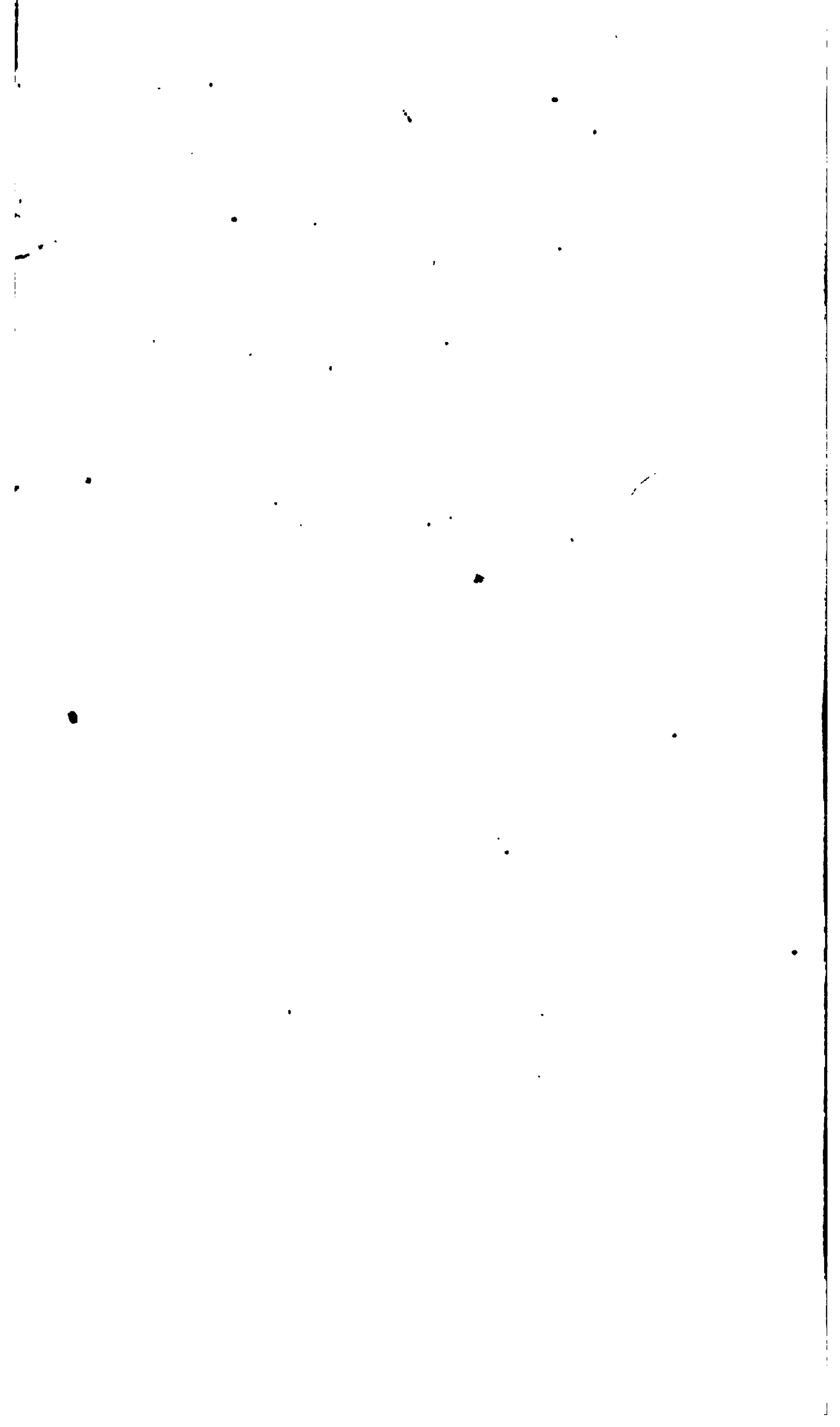
LI. § 5. The several degrees of flour shall in future be distinguished as follows, to wit: Superfine, fine, cross-middling, middling and ship-stuff.

Re-inspection.

LII. § 6. Any cask of flour which has been inspected and branded at any one place of inspection in this state, shall not be subject to re-examination or inspection in another, unless after such inspection it shall have remained for the space of sixty days before it is exported; and in all cases, the certificate of the inspector shall be conclusive evidence of the time when the flour was inspected.

Inspectors not to trade in flour
Penalty 100L.

LIII. § 7. No inspector of flour within this state, or their deputies, shall directly or indirectly vend, barter, sell, exchange or trade in flour, bread or other articles made of flour, under the penalty of 100L. to be recovered



by action of debt, bill plaint or information, by any person who will sue for the same to effect in any court of record in this state, the one half to the use of the person so suing, and the other half to be paid to the treasurer of the state for public use : and every person or persons so offending and thereof convicted, shall be, and they are hereby disabled from acting thereafter in their respective offices.

LIV. § 8. The county courts in the several counties in this state, from which flour is or may be hereafter exported, are hereby authorised and empowered to appoint inspectors of flour for exportation ; and said inspectors so appointed, shall be governed by the same rules and regulations, and subject to the same penalties as other inspectors of flour are by law.

1811. C. 9.

LV. § 1. The justices of the county courts of pleas and quarter sessions, in and for the several counties recited in the before mentioned act of April 1784, C. 26 ; are hereby authorised and required to nominate and appoint in open court, one or more fit and proper person or persons, residing in said county, to inspect the article of ton timber ; and every inspector so appointed, before he enters upon or executes his office, shall enter into bond with good and sufficient security, under the same rules, penalties, regulations, and restrictions, as are laid down in the before recited act, and shall be entitled for his services to the sum of ten cents per ton.

LVI. § 2. If any person shall officiate as inspector of any article mentioned in said act, without being legally qualified, he shall for every offence forfeit and pay the sum of thirty pounds, to be recovered before any jurisdiction having cognizance thereof, to the use of the county in which such person resides.

1813. C. 5.

LVII. § 1. Within twenty days after the first day of January next, the Governor shall appoint two persons of good repute, and who shall be skilful judges of flour, to act as inspectors of flour in the town of Fayetteville ; and he shall also appoint one person of good repute, and who shall be a skilful judge of flour, to act as inspector of flour in the City of Raleigh ; each of which said inspectors having taken the oaths prescribed by law for his qualification, shall have power to inspect flour, and brand the casks containing the same, under the same rules, regula-

tions and restrictions as are prescribed for inspectors of flour in this State: And the said inspectors shall be removable by the Governor for the time being, for proper cause to him shewn.

Flour may be boated to Wilmington without inspection.

LVIII. § 2. From and after the passing of this act, it shall be lawful for the master, owner or commander of any boat or craft, to receive on board his boat or craft for transportation from Fayetteville to Wilmington, any barrel or barrels of flour not inspected and branded; any thing contained in any law, heretofore passed to the contrary notwithstanding.

Three degrees of flour.

LIX. § 3. The several degrees of flour shall in future be distinguished as follows, to wit: Superfine, Fine and Cross-middling; and it shall be the duty of inspectors of flour at the several places of inspection in this State, to conform their inspection as near as may be to the inspection of flour observed, and in use in the adjacent States.

Inspectors fees.

LX. § 4. Each Inspector shall have and receive from the owner or owners of flour by him inspected, the sum of five cents for each cask, and no more; and all acts and clauses of acts, which come within the purview and meaning of this act, are hereby repealed and made void.

INSPECTORS OF TOBACCO:

See Fees, Tobacco.

INSURRECTIONS:

See Slaves.

INSURANCE.

1803. C. 4.

An insurance called the Mutual Insurance Society.

I. § 1. *Be it enacted, &c.* that an insurance be established, to be called and known by the name of "*The Mutual Insurance Society*, against fire on buildings, goods, and furniture, in the State of North-Carolina:" The principles whereof shall be, that the citizens of this state, or others, owning property within the same, may insure their buildings, goods and furniture against losses and damages occasioned, accidentally by fire, and that the insured pay the losses and expences, each his share, according to the

Books to be opened. sum insured: And that books be opened in different parts of this state, under the direction of John Haywood and Joseph Gales at Raleigh: of David Tate and John H. Stévély at Morganton; of John Steele and Lewis Baird at Salisbury; of William Norwood and William Whitted

at Hillsborough; of John Eccles and John Hogg at Fayetteville; of Goodorum Davis and Abraham Hodge at Halifax, of Josiah Collins, senr. and Samuel Tredwell at Edenton; of John Devereux and Francis X. Martin at Newbern; of Joshua G. Wright and George Hooper at Wilmington, for receiving the subscriptions for insurance against fire, on buildings, goods and furniture in the State of North-Carolina; such books to be opened on the first day of February next, and kept open until the society shall otherwise direct. That on the first day of May next, returns shall be made, by the several persons here before named, to the said John Haywood and Joseph Gales at Raleigh, of a transcript of the amount of the subscriptions made on their respective books, distinguishing, in such returns, what amount is on buildings, goods and furniture respectively; and on the event of the sum so subscribed, exceeding the sum of 300,000 dollars, it shall be the duty of said John Haywood and Joseph Gales to give public notice thereof, in the state gazette, and to appoint a meeting of the subscribers in person, or by proxy (constituted by delivery of the certificate of subscription, the production of which shall be deemed sufficient, until other provisions be made by the society) in the city of Raleigh, on the sixteenth day of June next; and if the subscriptions at or before the said meeting, or so soon thereafter as they shall amount to said sum of 300,000 dollars at least, the said subscribers shall be considered as a body politic, under the name of "*The Mutual Insurance Society*, against fire on buildings, goods and furniture in the State of North-Carolina," and, by that name, shall have perpetual succession, and a common seal; and may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in any court of law or equity in this state, or elsewhere, and may buy and sell, receive subscriptions for insurance to any amount, purchase and hold any real or personal estate in possession or action, reversion or remainder, for the benefit of the society, and for the more effectually enabling of them to fulfil the objects for which it is formed; but neither the subscribers, their agents, nor any one or more of them, shall be liable to be sued as individuals, for any matter done by the said society; and each person at the time of subscribing, shall receive a certificate thereof paying therefor 25 cents.

Returns on
the 1st of
May.

If 300 000
dolls sub-
scribed.

General
meeting on
the 16th of
June.

Subscri-
bers incor-
porated.

Rules and regulations to be formed.

II. § 2. A majority of any number of members, not less than one third in number or value, shall have power, from time to time, to frame and establish such rules and regulations, as to them shall seem meet, for the said society, and to alter and amend them at pleasure, which rules and regulations shall be binding upon the members thereof, to all intents and purposes, in law and equity; to fix the premiums according to certain rates of hazard, to be paid by the persons insured; and to elect a President, Directors, a Cashier General and any other officers.

Officers to be elected

President and Directors to fix the quotas.

III. § 3. The President and Directors, or one third of them, shall have power, according to the rates of premiums, to fix the quotas to be paid by the persons insured, for the purpose of making reparation to the injured, who shall be proved to have sustained loss or damage by fire, and have not directly or indirectly wilfully occasioned the fire; and also for the purpose of raising and keeping up a fund, that may be deemed sufficient to pay the annual losses and expences.

Property insured to stand pledged.

IV. § 4. The property insured (but none other) shall stand pledged, and engaged as a security, and shall be subject to be sold, if necessary, for the payment of any quota; that in case of a mortgage, or other transfer of insured property, the same shall continue equally liable for the payment of the quotas, as if the right thereof had remained in the original owner; but the mortgagee, or other transferee, shall be entitled to receive from the seller, an endorsement of the policy of insurance, and to recover from him any sums of quotas, which may be due from the seller, at the time of such sale, and shall be decreed to be paid out of the property insured, and shall be actually paid. The said mortgagee or other transferee, his heirs, executors, or administrators, shall also be liable for any quota becoming due after such mortgage or transfer; that any quota, or part thereof, due at any time, by any delinquent subscriber or member, may be recovered on the motion of the cashier of the society before any court of record within this state, giving such previous notice to any such delinquent subscriber or member, as the society, by their rules, may prescribe, and such court shall have jurisdiction to hear and determine the same, and to cause their judgments to be enforced with costs, by any legal execution, saving to any person against whom a motion shall be made, the right of a trial by jury, if he shall desire it. In any action, motion or suit, instituted against any person charged to be a subscriber or member, for the

recovery of a quota, due from him to said society, any copy from the books, papers, or records of the said society, as far as such copy relates to the delinquent member or subscriber, certified by the agent general or cashier upon oath, and signed by the president, or, in his absence, by any two directors, under the seal of said society shall be received as evidence of his subscription and declaration, and have as full faith and credit in all the courts of this state, as if the originals were produced. And the agent general and cashier shall, at all times, be deemed competent witnesses, notwithstanding any allegation of interest, arising from the allowances made them for their services. Upon any judgment or decree for a default in paying a quota, interest at the rate of six per centum per annum, until paid or discharged, shall be included, and the recovery thereof shall be enforced, in the same way, and chargeable upon the property insured, in the same manner as the principal sum itself. Whensoever it shall be necessary to resort to the property insured, the same proceedings shall be had against the persons who hold the fee simple thereof, as in the case of the delinquency of any subscriber, as above provided for, infancy or coverture notwithstanding; and in any case arising under this act, such proceedings shall be had by direction of the court, as justice will permit; any widow, tenant by courtesy or other person having a less estate than a fee simple in the property insured, shall pay a reasonable proportion of any quota incurring in their life time, to be adjusted by the president and directors on application. As long as there shall be a default in the payment of a quota, the property shall cease to stand insured; but upon the payment of the quota, the insurance, which may have been discontinued, shall be revived; but a person subscribing and not making a declaration, shall forfeit two per centum on the amount of his, her or their subscriptions.

Copy of records to be read as evidence.

Interest to be received on unpaid quotas.

Proceedings to be had against uninsured property.

V. § 5. Buildings held by tenants for life, or years, widows in right of their dower, and by orphans, may be insured in the aforesaid society. Provided, the declarations for insurance shall be signed by the tenants for life, or years, or widows, and the guardians or trustees of such orphans as the case may be, which declarations for insurance so signed, shall be binding on such buildings, and the persons who have signed such declarations and their representatives, and particularly on the actual owners of such property, in the same manner as if such declarations had been signed by the owners, in fee simple of such pro-

Buildings held by tenants for life, &c.

erty: subject however to the following provisions, limitations, and restrictions. In case the house of a tenant for life be destroyed by fire, after insurance, such tenant for life shall annually share from the said society, during his or her life the interest accruing on the principal sum of the loss insured, and the principal money shall be paid, after the death of such tenant for life, to the person or persons who are entitled to such house or houses, in reversion or remainder; and in case such building be the property of an infant, the principal money shall be paid to the guardian or trustee of such infant. Provided always, that the society may make and adopt such other rules, in the cases of buildings of tenants in possession and expectancy, as to them may seem just and proper.

VI. § 6. Any person, whose property stands insured, in conformity with the rules and regulations of the said society, shall have the same mode of recovery against them by motion, as is herein before given to them against delinquents. Provided always, that all suits against the society shall be brought in the county court of Wake: that it shall be lawful for the said society, to require a greater number of subscribers or members, to constitute a meeting, on subjects deemed by them peculiarly important, than the number herein before mentioned. That, in case no proxy is appointed for any meeting of whatsoever number it may consist, the senator of the county, or representative of the town, and for want of such senator, the senior members of the House of Commons, from such county, may act as such proxy. As there may be persons who will not wish to join the mutual concern, this *Mutual Insurance Society* shall be at liberty to insure the property of such persons, on the terms and conditions they may agree upon.

1804. C. 14.

VII. § 1. The board of direction of the *Mutual Insurance Society* of Raleigh shall be held in the city of Raleigh, in which place shall be kept the offices of the principal agent and cashier general, and in and near which shall reside the aforesaid officers and the President and a majority of the Directors.

VIII. § 2. Any member of said *Insurance Society* may withdraw his insurance at any time after the payment of his premium, and such quota or quotas as may of right be demandable of him at the time of delivering his declaration to withdraw: Provided such declaration be in writing and signed by the party so declaring and acknowledging.

and by him before some justice of the peace of this State, with the certificate of said justice that the same was duly acknowledged before him by the person whose signature appears thereto; which declaration shall be delivered to the board of Directors, and by them received as evidence of such withdrawing, and shall discharge such member and his insured property as mentioned in said declaration from all further pledge and liability: Provided however such insured property shall be considered and remain liable as a pledge and security for the payment of any quota which may at any time be imposed for the retribution of a loss or losses sustained previous to such discharge:

1804. C. 22.

IX. § 1. All such persons as now are, or hereafter shall be stockholders of the Newbern Marine Insurance company, are hereby constituted and declared to be, a body politic and corporate, by the name of "*The Newbern Marine Insurance Company*," and that by that name, they and their successors shall have perpetual succession, and shall be capable of suing and being sued, pleading and being impleaded, answer and being answered unto, defending and being defended, in all courts and pleas whatsoever; and that they and their successors may have a common seal, and change and alter the same at their pleasure; and be capable of purchasing, holding and conveying any estate, real and personal, for the use of said company.

Marine Insurance Company incorporated.

X. § 2. A share in the stock of the said company shall be fifty pounds, payable in advance or by such instalments as the president and directors, hereafter directed to be appointed, shall direct: and the number of shares shall not exceed five hundred, and subscription books may be had from time to time to be opened, under the direction of said president and directors.

Shares to be 50l. each.

XI. § 3. The stock and property, affairs and concerns of said corporation, shall be managed and conducted by eleven directors (one of whom shall be president, and another secretary) who shall hold their offices for one year, and until others shall be chosen, and at the time of their election shall be stockholders and inhabitants of the town of Newbern, and shall be elected on the second Monday of January in every year, at such time of the day, and at such place, in said town, as the directors for the time being shall appoint, and every stockholder shall, at such election, have a vote, for every share he holds, reckoning

Concerns to be managed by 11 directors.

How elected.

no share except such as were acquired ninety days before the election; and the persons having the greatest number of votes (a majority of the votes of the stockholders being taken) shall be elected.

Officers & servants of the company, how chosen.

The directors shall meet as soon as may be after every election, and shall chuse the officers and servants of the company, the latter of whom shall be removable at their pleasure, and shall during the year fill up any vacancy that may happen in their own body, or in said officers or servants; but such appointments shall expire on the day of the next annual election.

Corporation not dissolved by a failure of an election of directors.

XII. § 4. If it should at any time happen, that an election of directors should not be made on any day when, pursuant to this act it ought to have been made, the said corporation shall not therefore be dissolved, but it shall and may be lawful to hold and make an election of directors in such a manner, and at such a time, as the laws and ordinances of the corporation may direct.

Quorum how composed.

The president and six directors shall constitute a board competent for the transaction of business, and have power to make laws and ordinances for the management and disposition of the stock, property, estate and effects of the corporation, the transfer of shares, and the duties and compensations of the secretary and servants employed. They shall also appoint a committee of four directors, any two of whom, with the president, shall have power, on behalf of the corporation, to make insurances, fix premiums, lend money on bottomry or respondentia bonds, mortgages or the personal security of two responsible freeholders, direct the issuing of policies, notes, and all and every instrument of writing that may be necessary and proper in the transaction of the affairs of the company; and all such instruments, subscribed by the president and countersigned by the secretary, shall bind the property, real or personal, of the corporation.

1810. C 7.

Mutual insurance against fire.

XIII. § 1. In order to accomplish the object of "the act for establishing a Mutual Insurance Society against fire on buildings, goods and furniture in this state," books shall be opened in the several counties of this state, on the first day of March next, as follows to wit: (*Here follows a list of the places at which books are to be opened*) and on the event of the sum so subscribed exceeding the sum of two hundred thousand dollars, it shall be the duty of the said Joseph Gales, William Boylan and William Glendinning, to give public notice thereof in each of the new

When the society shall go into effect.

papers published in the city of Raleigh, and to appoint a meeting of the subscribers, in person or by proxy, constituted by delivery of the certificate of subscription, the production of which shall be deemed sufficient (until provision be made by the society) in the city of Raleigh, on the first day of September next; and if the subscription at or before the said meeting, or so soon thereafter as they shall amount to the said sum of two hundred thousand dollars at least, the said subscribers shall be considered as a body politic and corporate.

XIV. § 2. The aforesaid recited act, except such parts thereof as are herein provided for or altered, be, and the same are hereby continued in full force, in the same manner as if the same had been carried into operation at the time therein specified. Former acts continued.

1811. C 7.

XV. § 7, William Boylan, Joseph Gales and William Glendinning, commissioners appointed by the act aforesaid for the county of Wake, for receiving subscriptions to the said Mutual Insurance Society, be, and they are hereby authorised to call a meeting by public advertisement in the Raleigh newspapers of the present subscribers to the said Mutual Insurance Society, and of such others as may hereafter become subscribers thereto, for the purpose of forming a constitution and of organizing the said society, agreeably to the provisions of the act aforesaid, passed in the year one thousand eight hundred and three, and to an act passed in the year one thousand eight hundred and four, amendatory to the said act, on such day or days, and at such place in the city of Raleigh, as they may deem most convenient; and that such constitution and organization shall be in all respects as valid as if the same had been made at the time and in the manner prescribed by the above-mentioned acts; any thing to the contrary notwithstanding. Commissioners authorised to call a meeting of subscribers in order to form a constitution.

INTEREST.

1785. C. 2.

I. § 7. In all trials for the recovery of debts contracted previous to the 4th day of July, 1776, no interest shall be allowed from that period until the 4th day of July, 1782, where the debtor shall prove the creditor had refused to receive the current money of the state, or had removed him or herself, or remained out of the state, within the aforesaid time, or continued within the British lines. Where interest not allowed.

1786. C. 4.

What instruments bear interest.

II. § 3. All bonds, bills, notes, bills of exchange, liquidated and settled accounts, shall bear interest from the time they become due, provided such liquidated and settled accounts shall be signed by the debtor, unless it shall be specially expressed that interest is not to accrue until a time specially mentioned in said writings or securities; provided also, that this act shall not extend to or have any operation with respect to any bonds, bills, notes, bills of exchange, liquidated and settled accounts, heretofore given or made.

Interest due upon demand.

III. § 4. All bills, bonds and notes made payable on demand, shall be held and deemed to be due on demand made by the creditor, his agent or attorney, by suit or request, and shall bear interest accordingly.

Interest on specific articles.

IV. § 5. All securities for the payment or delivery of tobacco, and all other specific articles, shall bear interest as monied contracts, that is to say, the articles shall be rated by a jury at the time they become due, and interest be paid by the debtors accordingly.

1807. C. 12.

Principal to bear interest after judgment.

V. § 1. In all actions which shall hereafter be brought to recover money due by contract hereafter to be made, except on penal bonds, it shall be the duty of the jury to distinguish by their verdict, the sum due as principal, from the sum allowed for interest; and the principal sum due on all such contracts, shall carry interest, from the time of rendering judgment thereon until the same shall be paid and satisfied; and the judgments in such actions shall be rendered according to the provisions of this act.

1808. C. 11.

In certain cases interest to be allowed without writ of enquiry.

VI. § 1. Whenever a suit shall be instituted on a single bond, a covenant for the payment of money, a bill of exchange, a promissory note, or a signed account, and the defendant shall not plead to issue thereon, it shall and may be lawful upon judgment, without a writ of enquiry, for the clerk of the court to ascertain the amount of interest due by law; and the said amount shall be included in the final judgment of the court, as damages, which judgment is to be rendered therein in the manner prescribed by the aforesaid act.

See Attachment, Bills of Exchange, Certificates, Confiscation, Entries, Guardian, Justices and Prisoners.

Internal Improvement.

Concerning the Board thereof -
1835-C 20

INTESTATE'S ESTATE.

1766. C. 3.

§ 1. The administrator shall distribute the surplus of such estates in manner following, to wit; *If there are not more than two children*, one-third part to the wife of the intestate, and all the rest, by equal proportions, to and amongst the children of such person dying intestate, and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate in his life-time, by portion or portions equal to the share which shall by such distribution be allotted to the other children to whom such distribution is to be made; and in case any child who shall have any estate by settlement from the intestate, or shall be advanced by the intestate in his life-time, by portion or portions not equal to the share which shall be due to the other children by such distribution as aforesaid, then so much of the surplus of the estate of such intestate, to be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the life-time of the intestate, as shall make the estate of all the said children to be equal as nearly as can be estimated. And in case there should be no children, nor any legal representatives of them, then *one-third* of the said estates to be allotted to the wife of the intestate, and the residue of the said estate to be distributed equally to every of the next of kin of the intestate who are in equal degree, and to those who legally represent them, provided that there be no representatives admitted amongst collaterals after brothers' and sisters' children. *If there are more than two children, then such widow shall share equally with all the children, she being entitled to a child's part*; and in case there be no wife, then all the said estate to be distributed equally to and amongst the children; and in case there be no child, then to the next of kindred in equal degree of or unto the intestate, and their legal representatives as aforesaid, and in no other manner whatsoever. And if after the death of the father any of his children shall die intestate without wife or children, in the life-time of the mother, every brother and sister, and the representatives of them, shall have an equal share with the mother of the estate of the child or children so dying intestate.

Distribution of

1792. C. 7.

Children
advanced,
to account.

II. § 2. Where any person shall die intestate, who had in his or her life-time given to or put in possession of any of his or her children, any personal property of what nature or kind soever, such child or children, possessed as aforesaid, shall cause to be given to the administrator or manager of such estate an inventory, on oath, setting forth therein the particulars by him or her received of the intestate in his or her life time.

Their re-
fusal to ac-
count bars
them.

III. § 3. In case any of the child or children who had in the life-time of the intestate received a part of said estate, and shall refuse to give an inventory as aforesaid, such child or children shall be considered to have had and received his or her full share of the deceased's estate, and shall not be entitled to receive any further part or share thereof.

1799.

Illegiti-
mate chil-
dren enti-
tled to dis-
tribution,
&c.

IV. Where any woman shall die intestate, leaving children commonly called illegitimate or natural, born out of wedlock, and no children born in lawful wedlock, all such estate whereof she shall die seized or possessed of, whether real or personal, shall descend to and be equally divided among such illegitimate or natural born children, and their representatives, in the same manner as if they had been born in wedlock, and if any such illegitimate or natural born child shall die intestate, without leaving any child or children, his or her estate, as well real as personal, shall descend to and be equally divided among his or her brothers and sisters born of the body of the same mother, and their representatives, in the same manner and under the same regulations and restrictions as if they had been born in lawful wedlock.

Partition, Suicide, Widows.

INVENTORIES.

Administrators and Executors, Guardian, Intestates' Estates, Widows and Wills.

JOINTENANCY.

1784. C. 22.

Survivor-
ship abo-
lished.

I. § 6. In all estates, real or personal, held in jointenancy, the part or share of any tenant dying shall not for the future descend or go to the surviving tenant or tenants, but shall descend to be vested in the heirs, executors administrators or assigns respectively of the tenant

so dying, in the same manner as estates held by tenancy in common: Provided always, that estates held in joint-tenancy for the purposes of carrying on and promoting trade and commerce, or any other useful work or manufacture, established and pursued with a view of profit to the parties therein concerned, shall be vested in the surviving partner or partners, in order to enable him or them to settle and adjust the partnership business, and pay off the debts which may have been contracted in pursuit of the said joint business; but as soon as the same shall be effected, the survivor or survivors shall account with and pay and deliver to the heirs, executors, administrators or assigns respectively of the deceased partner or partners, all such part, share and sums of money, as he or they may be entitled to by virtue of the original agreement, if any, or according to his or their share or part in the joint concern, in the same manner as partnership stock is usually settled between said merchants and the representatives of their deceased partners. Except as to joint traders who take the whole in the first instance, to settle the partnership dealings.

JOINT AND SEVERAL CONTRACTS.

1789. C. 57.

I. § 5. In case of the death of one or more joint obligor or obligors, the joint debt or contract shall and may survive against the heirs, executors and administrators of the deceased obligor or obligors, as well as against the survivor or survivors; and when all the obligors shall die, the debt or contract shall survive against the heirs, executors and administrators of all the said joint obligors, and in all cases of joint obligations or assumptions of co-partners or others, entered into after the passing of this act, suits may be brought and prosecuted in the same manner as if such obligations or assumptions were joint and several. Joint obligations made joint and several.

1797. C. 3.

II. § 1. In all cases where an executor or administrator shall be sued with a surviving obligor or obligors, in pursuance of 1789, c. 57, and it may be necessary the judgment should be rendered against such executor or administrator, such process and judgment may be awarded against the same, as if such executor or administrator had been sued severally, and judgment may be awarded and entered up against the surviving obligor or obligors, as is usual in other cases, such special judgment against the executor or administrator notwithstanding. Suit ag't surviving obligor & the representatives of a dec'd obligor.

On joint contracts suit maybe brought against all or any one or more.

III. § 2. In all cases of joint obligations or assumptions of co-partners in trade, or others, such suits may be brought and prosecuted on the same against the whole or any one or more of such persons making such obligations, assumptions or agreements.

JOURNALS.

See Legislature, Printer.

IRON WORKS.

1788. C. 34.

3000 acres of land granted by the state as a bounty.

Entry thereof.

Duty of e'ty court on such entry.

If works erected in 3 years, warrant to be ordered

I. § 1. Three thousand acres of vacant land, not fit for cultivation most convenient to the different seats, is hereby granted for every set of iron works, as a bounty from this state to any person or persons who will build and carry on the same, to be under the following rules and regulations, viz. where any person or persons intend to build iron works, such person or persons may proceed to the entry taker of the county, where he intends to erect such works, and enter in one or more tracts the quantity of bounty land allowed by this act for one set of works, and the entry taker or entry takers is and are hereby required to make out a copy of the land entered as aforesaid, and transmit the same to the next court that shall be held in the county in which he or they are entry takers.

II. § 2. The court of any county in this state, upon receiving the return of the entry taker for the land as aforesaid, such court shall proceed to appoint a jury, consisting of twelve persons who are of good character; and the jury so appointed shall proceed to view the land in their county entered as aforesaid, and if they shall adjudge the land so entered, not fit for cultivation, they shall certify the same in writing, and return the certificate to the next court held in their county, and the court upon receiving such return shall cause the certificate to be recorded by the clerk.

III. § 3. If any person or persons who may enter lands agreeably to this act, shall erect iron works within three years from the time of the jury's return, such person or persons on making it appear to the court of the county that he or they have made at said works 5000lbs. of iron, shall receive an order to the entry taker, requiring him to issue the warrants for the bounty land.

IV. § 4. Such entry taker upon receiving such order, shall proceed to issue warrants for the lands granted by

this act, without receiving any money for the state; and the surveyor, upon receiving such warrants, shall proceed to survey the same as soon as convenient, and make return to the secretary's office, that grants may issue for the same, and such grant or grants shall be as good and valid to the proprietors of such works, their heirs or assigns, as if the purchase money had been paid; Provided nevertheless, that if any person or persons shall enter lands in pursuance of this act, and fail to erect iron works according to the true intent and meaning thereof, the lands so entered shall revert to the state, unless the person who has entered the same pays the purchase money for the use of the state.

Entry to
kings and
surveyor's
duty.

V. § 5. The bounty lands granted by this act shall be exempt from taxation for the term of ten years.

Such land
exempt
from taxa-
tion.

ISSUES IN EQUITY.

See Practice.

JUDGES.

CONSTITUTION, ART. 13.

I. § 13. The General Assembly shall, by joint ballot of both houses, appoint judges of the supreme courts of law and equity, and an attorney general, who shall be commissioned by the governor, and hold their offices during good behaviour.

How ap-
pointed.

II. § 21. The governor, judges of the supreme courts of law and equity, and attorney general, shall have adequate salaries during their continuance in office.

Salaries.

1777. C. 2.

III. § 5. The judges, before they act as such, shall in open court, or before the governor for the time being, take the oath appointed for the qualification of public officers, and also the following oath (*which see under Oaths* 5) and if any of the said judges shall presume to act in his office before he shall have taken the oaths hereby directed, he shall forfeit and pay 1000*l.* to be recovered by action of debt in any of the superior courts, one half to the use of the state, towards defraying the charges of government, and the other half to the person or persons who shall sue for the same.

For their
power, see
superior
court.
Oath.

1796. C. 4.

IV. § 1. It shall not be lawful for any judge, in delivering a charge to a petty jury, to give an opinion whether a fact is fully or sufficiently proved, such matter being the

Shall not
give an o-
pinion on
the facts in

charging jury.

true office and province of the jury; but it is hereby declared to be the duty of the judge, in such cases, to state, in a full and correct manner, the facts given in evidence, and to declare and explain the law arising thereon.

1798. C. 33.

Pay to be withheld on failure of duty.

See par. 2.

V. § 2. When it shall so happen that any of the judges of the superior courts as aforesaid, be rendered incapable to attend in discharge of the duties of their office for six months successively, it shall be the duty of the treasurer, and he is hereby directed to withhold such judge's pay, and every part thereof, that might be due after such disability, until such judge reassume the duties of his office, or until otherwise directed by the General Assembly.

1799. C. 10.

No sheriff to carry wand in future.

VI. In future no sheriff of any county in this state shall be either compelled or suffered to precede, with or without a wand, or other the like equipinent, any of the judges of the superior courts of law and courts of equity in this state, when going to or returning from the court-houses, as is at present the custom.

1808. C. 9.

To be paid on certificate of clk. 40l for each certificate.

VII. § 2. For the year one thousand eight hundred and nine, and thenceforward, the judges of the superior courts of law and courts of equity in this state, for the time being, shall be paid for their services as judges, on certificates to be granted or furnished them by the clerks of the several superior courts, under their hands and the seals of their courts respectively; which certificates shall be written on at least one half sheet of paper, and shall pass and be paid at the public treasury, at the rate of 40l. for each certificate.

1809. C. 5.

No Judge to ride the same circuit more than once in eighteen months.

VIII. § 1. From and after the passage and ratification of this act, it shall be the indispensable duty of the several judges of the superior courts of law and equity within this state, to so regulate their ridings, that none of the said judges shall ride the same circuit more than once, within the term of eighteen months; any thing to the contrary notwithstanding: Provided, that nothing in this act contained shall be so construed as to affect the next riding of the judges.

Affidavit, Attachment, Attornies, Claims, Clerks, Clerk and Master in Equity, Confiscation, Depositions, Equity, Feme Covert, Gaming, Guardian and Ward, Hides, Insolvents, Impeachment, Injunctions, Insolvent Debtors, Jury, Members of Assembly, Oaths, Oyer and Terminer, Partition, Perjury, Powers of Attorney, Practice, Prisoners, Process, Ridings, Salaries, Sheriff, Superior Courts, Taxes, Treason, U. States, Widows.

If the C. C. neglect to appoint
a judge, the Clerk & Sheriff & 3 Justices
shall make a special one
1871. C. 33, C 33

The Justices, in a capital case
over a special venire jurors
1870. C 27

Shall make out summonses in capital
cases, indictments of any county including
over - This act does not extend
Capital Cases - 1870 C 32

JUDGMENT BONDS.

1783. C. 9.

I. § 2. All judgment bonds, notes, and other writings, with power to any person whatever to confess judgment thereon, shall be and are hereby declared to be utterly void as to such power, but the same proceedings shall be had thereon, as on common bonds and penal notes.

JUDICIAL ATTACHMENT.

See Attachment, Process.

JUDGMENT BY DEFAULT.

See Practice.

JURY.

BILL OF RIGHTS.

I. § 14. In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable, Trial by jury sacred

1779. C. 6.

II. § 2. The justices of the county courts within the district of each superior court, shall, before the sitting of any superior court, nominate freeholders to serve as jurors at such superior courts. Juries here chosen.

III. § 3. The number of freeholders to be nominated for each county to serve as jurors, shall be proportioned, &c. [here follows the number from each county—but the act of 1806, chap. 2, alters the number and provides a new mode of appointing jurors to the superior courts, which see post; and under Superior Courts,] a list of which jurors so nominated shall be delivered by the clerk of each county court to the sheriff, who shall and he is hereby required to summon the persons so nominated to serve as jurors at the superiour court; and if any juror so summoned shall fail to appear, he shall be fined, unless he can shew sufficient cause to the next court to excuse his non-appearance, which fine shall be applied to the payment of such jurors as shall attend from the said county, and thereby lessen the county tax. To be summoned by the sheriff.

Fine.

Application.

IV. § 4. If any of the said county courts shall fail or neglect to nominate freeholders to serve as jurors as aforesaid, or the persons so nominated shall fail to attend, it shall and may be lawful for such superiour court to order Taleman

and direct the sheriff to summon other freeholders of the bystanders to serve as jurors, and the persons so summoned shall be held and deemed lawful jurors, provided that such bystanders who shall be so summoned shall and may be every day discharged, and the succeeding day, and so from day to day during the continuance of the court, the sheriff shall summon of the bystanders so many as shall be necessary.

Fines to be levied by the sheriff. V. § 5. The fines herein imposed shall be levied by the sheriff of each respective county wherein each person shall reside, who shall be summoned as jurors as herein directed, and shall fail to appear and serve as such, and such sheriff shall be accountable for the same to the county court of his county.

Summons when and how to be made. VI. § 6. The sheriff of each respective county shall summon the freeholders in the list to be delivered him by the clerk of the county court of his county, at least ten days before the sitting of the superior court of which such freeholders are to attend as jurors which he may do personally, or by leaving a note or summons in writing at the dwelling-house of such freeholder so to be nominated as aforesaid.

County court jurors. VII. § 7. The justices of the county courts shall, at the session of their respective courts, nominate 30 freeholders to serve as grand and petit jurors at the next ensuing court of the county, and a list thereof shall by the clerk be delivered to the sheriff of such county, who is hereby required to summons the persons therein named to attend as jurors at such courts respectively, at least five days before the sitting of such courts, which said jury shall appear and give their attendance accordingly till discharged by the court; and that there may not be a default of jurors, it shall and may be lawful, during the sitting of the county court, for the sheriff, by order of such court to summon of the bystanders other jurors, being freeholders, to serve on the petit jury from day to day, and on any day of the said court, the justices may discharge those who have served the preceding day.

Fine. VIII. § 10. Every person summoned to attend as a juror at any county court, and failing to appear or attend till discharged by order of the court, shall be fined, to be applied towards defraying the charges of the county and lessening the county tax, unless he shall show sufficient cause to the next succeeding court for such failure.

Application. IX. § 11. No sheriff or other officer shall serve or execute any writ or other process on the body of any juror,

In all criminal cases of a capital na
= ture State may challenge four
jurors - 1827. C 10 -

during his attendance on, going to and returning from any of the said superior or county courts, any such service shall be void, and the defendant may on motion be discharged. Exempt from serving of process.

X. § 12. The judges of the superior court shall direct the names of all the jurors returned from the counties of the district where such court shall be held, to be wrote in scrolls of paper, which shall be put into a box and drawn out by a child under ten years of age, and the first eighteen drawn shall be a grand jury for the said court, and the residue of names in the box shall be the names of those who shall serve as petit jurors for the said court. Jurors how drawn

XI. § 13. When either of the parties shall require that a jury should be ballotted for, in that case the clerk shall write the names of all the petit jurors appearing in scrolls or pieces of paper, and on the issue in such suit a child under ten years of age, in open court, shall draw out of the said box twelve of the said scrolls or pieces of paper, and the persons whose names shall be in the said scrolls or pieces of paper drawn as aforesaid, shall be jurors to try such issue, provided that they all do appear, and in case of defaulters, other scrolls shall be drawn until a sufficient number shall appear to make a complete jury. Ballotting for jury.

1783. C. 11.

XII. § 2. Every juror who shall be hereafter appointed by any of the county courts within this state to attend at any of the superior courts, and shall fail to appear according to the summons and give his attendance, shall forfeit and pay 10l. specie; and every person appointed by and duly summoned to attend any county court, who shall fail or neglect to attend such court as a juror, shall forfeit and pay 5l. which forfeitures shall be assessed by the court to which such person shall be returned a juror, and recovered and applied as fines are directed by 1779, c. 6, and appropriated to the same purposes as in the said act is directed, provided that each delinquent jurymen shall have till the next succeeding term to make his excuse to the judges or justices of the said court, as the case may be, for his non-attendance. Fine for nonattendance.

XIII. § 3. Every jurymen who shall attend agreeable to such summons the superior courts for the district of Morgan and Salisbury, and from the counties of Chowan, Person and Robeson, shall be allowed for every day's attendance eight shillings specie, and the like sum for every thirty miles he shall travel in going to and returning from the said court; and all jurors to superior courts Pay of cert tain juror

Ferriages. shall be allowed each such sums as shall be necessarily expended by him in crossing ferries, and every juror shall receive at the end of the term from the clerk of the court a certificate for the sum he may be entitled to receive, in which ticket the number of days such person has attended shall be expressed, and also the number of miles he may have travelled, together with the charges of ferriage, where any may have been expended by him, which ticket shall be paid out of the county tax of the county where such juror resides.

Talesman failing. XIV. § 5. When any person shall be summoned by the lawful officer to attend any of the aforesaid courts as a talesman, and who shall fail to appear and give his attendance during the day for which he is summoned, shall be amerced at the discretion of the court, not exceeding twenty shillings specie, and the court shall order the clerk forthwith to issue an execution against the body or goods of the delinquent for such amercement and costs.

1790 C 9.

Original pannel sworn for the term—Talesmen for the day. XV. § 1. The clerks of the respective courts of law shall, at the beginning of their courts, swear or cause to affirm such of the petit jury as are of the original pannel, well and truly to try all civil causes that shall come before them, according to the evidence given thereon; and if there should not be enough of the original pannel, talesmen shall take a similar oath or affirmation to try such causes as shall come before them during the day. Any thing herein shall not be so construed as to prevent the usual challenges in law to the whole of the jury so sworn, or any of the said jurors; and if by reason of such challenges any juror or jurors shall be withdrawn, his or their place on such jury shall and may be supplied by any of the original venire, or of the bystanders by law qualified to serve on any jury within this state. Nothing herein shall alter the present mode of swearing petit jurors on state trials, but the same shall continue in the usual form as heretofore practised.

1796. C. 4.

Peremptory challenge of 2. XVI. § 2. It shall be the duty of the clerk of the court before a jury shall be impannelled, to try the issue or issues in any civil cause depending therein, to read the names of the jurors upon the pannel in the presence and hearing of the parties or their counsel; and it shall be competent for either plaintiff or defendant, or their counsel for them, to challenge peremptorily two jurors upon the said pannel, without shewing any special cause there-



for ; which challenges shall be allowed by the court, and the panel shall then be made up as in other cases.

1796. C. 12.

XVII. § 4. The justices of each and every court of ^{How ap-} pleas and quarter sessions, when about to appoint jurors ^{po men-} to the superior court of the district, shall cause to be written on scrolls of paper the names of a number of freeholders of their county, double the number required to be appointed, and the same shall be put into a box and be drawn out by a child under ten years of age or some other person, and the names first drawn out, amounting to the one half the whole number in the box, shall be the names of the persons to serve as jurors at the superior courts respectively: Provided nevertheless, it shall not be lawful to appoint as a juror to any superior court any person who may have served as such at the preceding term of the court, or is a party in any suit pending therein; and if, notwithstanding the provision hereby made to the contrary, any person disqualified as aforesaid shall or may be appointed, it is hereby declared to be the duty of the judges of the said superior courts to discharge him or them from attending such court as a juror or jurors. ^{Those not competent whoserved the preceding c't or have suits pending.}

1797. C. 26.

XVIII § 1. Each juror to the superior courts shall receive the sum of 10s. for every thirty miles in going and returning from the same, and for each day's attendance the sum of 10s. for the amount of which the clerks of the several superior courts aforesaid shall grant to the juror a certificate, which shall be paid in the same manner as heretofore pointed out by law. This act shall not extend to the districts of Salisbury and Morgan, and the counties of Chowan, Person and Robeson. ^{Jurors pay in superior court.}

XIX. § 2. When any juror appointed and summoned to attend at the several superior courts, and failing so to do, it shall be lawful for such delinquent juror to send forward his excuse to such court on oath, setting forth the reason why he cannot attend, which if adjudged sufficient, shall exonerate said juror from the fine that may be imposed, and all costs. ^{Juror's excuse for not attending.}

1797. C. 27.

XX. § 1. Every juror who shall be appointed and summoned, and shall regularly attend the county court of New-Hanover, shall be allowed eight shillings for each and every day's attendance, and eight shillings for every thirty miles travelling to and from said court. ^{New Hanover jurors' pay.}

Pay of
certain o-
ther jurors
in county
courts.

XXI. § 2. Every juror who shall be appointed and summoned to attend the county courts of Surry, Stokes, Orange, Cumberland, Montgomery, Wilkes, Sampson, Carteret, Burke, Richmond and Randolph, and of Rockingham, Currituck, Halifax and Duplin, shall be allowed the sum of five shillings, for each and every day's attendance, and the sum of five shillings for every thirty miles travelling to and from said courts.

How paid.

XXII. § 3. Each and every juror shall obtain from the clerk of his said court a certificate, in the same manner and under the same rules as certificates are obtained from the clerks of the superior courts for the like services, which shall be paid *as to the counties first mentioned in par. 21,* by the trustees of the several counties aforesaid respectively, *and as to the counties last mentioned therein,* shall be collected and paid by the sheriffs of the respective counties before mentioned, under the same rules and regulations as are prescribed for the payment of certificates for the attendance of jurors at the superior courts.

County
courts to
lay tax to
pay said
jurors.

XXIII. § 4. The county courts aforesaid respectively, shall and they are hereby authorised and required to lay a tax in their respective counties on each and every poll, not exceeding 1s. and upon every hundred acres of land not exceeding 4d. and upon every hundred pounds value of town property with their improvements not exceeding 1s. so as to raise a sufficient sum in each and every county as aforesaid for the payment of said jurors; which tax the county courts aforesaid shall continue to lay from year to year. *The jurors from the county of Rockingham shall not be allowed pay for travelling to and from said court.*

1798. C: 61.

Ruther-
ford jurors
their pay.

XXIV. § 1. The jurors attending the county court of Rutherford shall be allowed 4s. for each and every day they shall attend on public business, and 4s. for every 30 miles travelling in going to or returning from said court.

The coun-
ty court to
lay a tax to
pay them.

XXV. § 2. The said county court may lay and levy a tax on the citizens of their county equal to pay off and discharge said allowance, not exceeding 1s. on each poll, and 4d. on each hundred acres of land, and 1s. on each hundred pounds value of town property, per annum;— which said tax shall be under the direction of the court, collected by the sheriff in the same manner as other county taxes, and accounted for by him to the trustee of said county, under the same rules and regulations, and by him paid to the different claimants on the production of their

certificates, and shall be allowed therefor in the settlement of his accounts.

XXVI. § 3. The clerk of said court shall, at the end of each session, make out a certificate to such juror, and for which he shall be paid 8d. This law shall not take effect until a majority of the acting justices in said county do approve of the same and order a tax to be laid as aforesaid.

Certificates to the jurors.
Law to be approved by the justices.

1799. C. 5.

XXVII. § 1. The several county courts within this state shall have full power and authority (except it be those already provided for by law) to lay a tax for the purpose of paying their jurors a price adequate to their services, not exceeding 5s. per day, and 5s. for every 30 miles riding to and from said courts, if they deem it necessary: Provided nevertheless, that two thirds of the acting justices of said counties concur in laying of the taxes for the purpose abovementioned: which taxes shall be collected and accounted for as other county taxes are now or may hereafter be accounted for.

County to lay a tax for the payment of jurors.

1801. C. 28.

XXVIII. § 1. It shall be the duty of the clerks of the several superior and county courts within this state, before a jury shall be impannelled to try the issue or issues in any suit or prosecution wherein the state is a party (except in cases of capital offences) to read over the names of the jury upon the pannel in the presence and hearing of the defendant or defendants, his, her or their counsel; and it shall be competent for the defendant or defendants, or their counsel, for them to challenge peremptorily two jurors upon the said pannel, without shewing any cause therefor, which challenge shall be allowed by the court, and the pannel shall then be made up as in other cases.

Two jurors challenged peremptorily in State trials.

1802. C. 14.

XXIX. § 2. The jurors attending the several superior courts of law within this state (where a greater allowance is not already made) shall be allowed each the sum of 10s. for every day he shall attend such court, and 10s. for every 30 miles travelling to and from such courts.

Their pay in superior courts.

1804 C. 24.

XXX. § 1. Every person summoned to attend as a juror to any of the county courts of this state, who shall fail or neglect to attend said court as a juror, shall forfeit and pay a sum not exceeding 5l. nor under 40s. which forfeiture shall be assessed by the court to which such person

Forfeiture can neglecting to attend as a juror in county court.

and the ex- shall be returned as juror, recovered and applied as by
 case. an act of 1783 directs: Provided, that each delinquent
 jurymen shall have till the next succeeding term to make
 his excuse to said court for his non-attendance; and if
 he shall at the said term render, to the satisfaction of the
 court, sufficient excuse, such delinquent juror shall be dis-
 charged without costs.

1804. C. 30.

Physicians
 exempted
 from jury
 service.

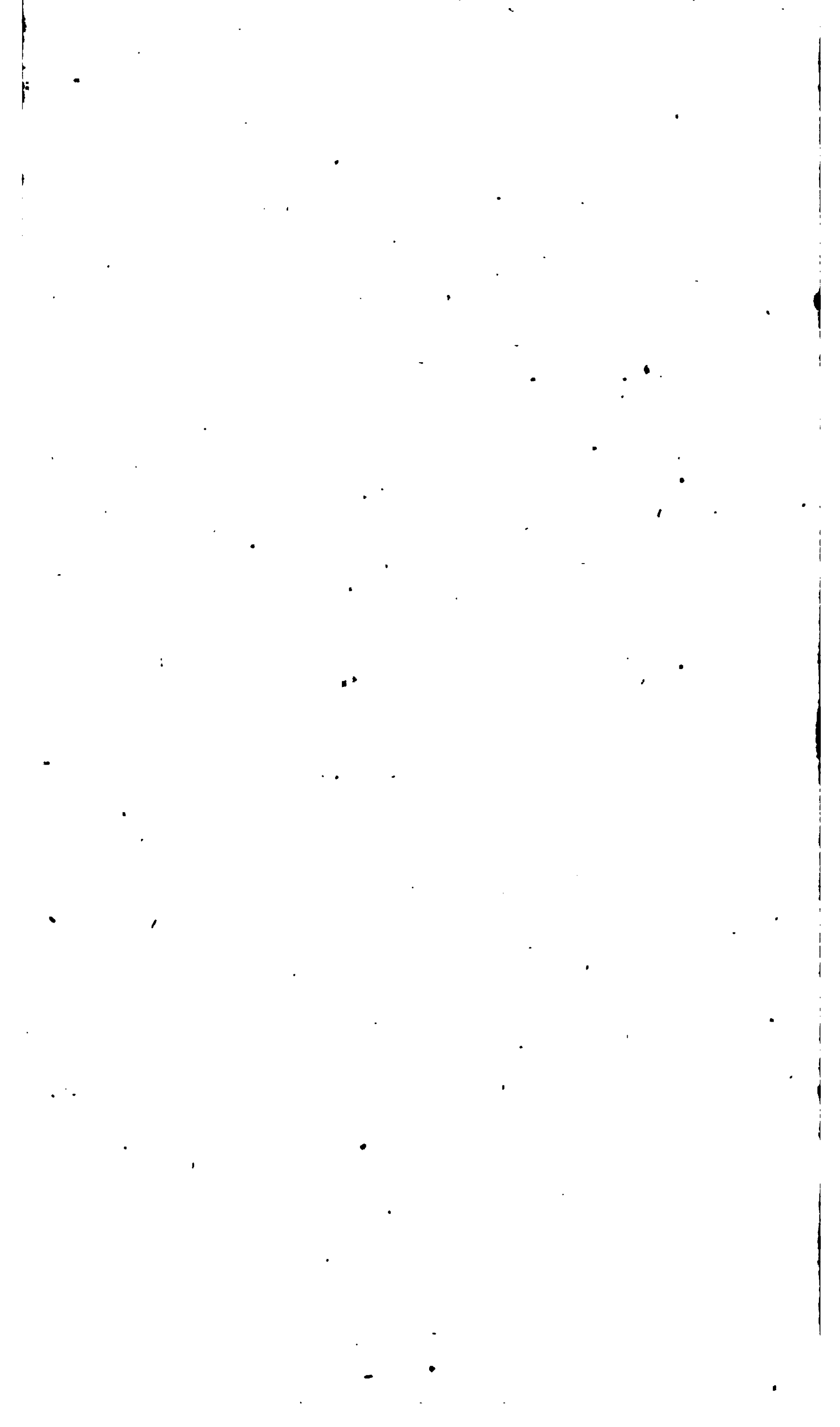
XXXI. § 1. All regular bred physicians or practition-
 ers of physic and surgery shall, and they are hereby de-
 clared to be exempt from serving as jurors, either in the
 county or superior courts of this state.

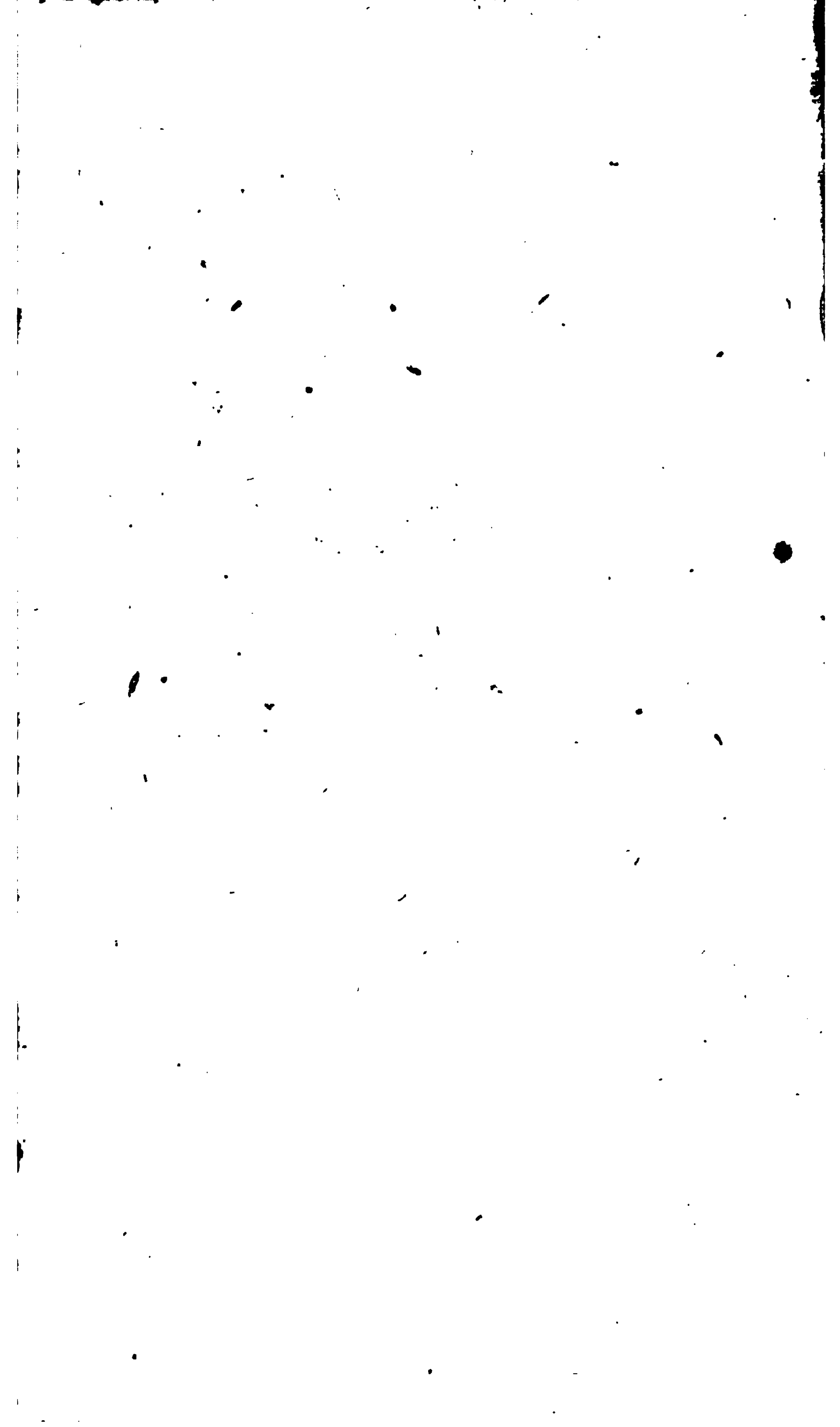
1806. C. 2.

Manner of
 appointing
 jurors.

XXXII. § 1. At the first term at which the several
 county courts of pleas and quarter sessions shall be held
 within this state after the first day of January next, and
 once at least in every three years thereafter, it shall and
 may be lawful for each and every of the said county
 courts, and they are hereby directed and required, to
 cause the jury lists to be made up from the tax returns of
 such county for the preceding year, which tax returns
 shall be furnished by the clerk of said county, whenever
 thereto required by said court; and the justices attend-
 ing at such court, shall cause therefrom to be transcribed,
 the names of all such persons who are by law qualified to
 serve as jurors, (except those who from age, infirmity, or
 from any other cause, may be unfit to serve as jurors)
 whose names shall be written on small scrolls of paper of
 equal size and put into a box to be procured for that pur-
 pose, which shall have two divisions marked No. 1 and
 2, and two locks, the key of one to be safely kept by the
 sheriff of the county, the other by the chairman of the
 county court, and the box by the clerk of said court; and
 the said justices at each and every session of their said
 court, which shall happen next preceding the sitting of the
 superior court of the said county, shall cause to be drawn
 from the said jury box, out of the partition marked No.
 1, by a child not more than ten years of age, thirty per-
 sons, who shall serve as jurors at the next succeeding su-
 perior court to be held for said county: Provided always,
 that whensoever the county court of such county shall be
 held within fifteen days of the sitting of the superior court
 of the same, that then the court preceding such county
 court, shall draw the jury as aforesaid. And provided
 further, that in case any of the jurors so drawn shall have
 a suit pending and at issue in the superior court, the se-







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